आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL INDORE BENCH, INDORE

BEFORE SHRI PARESH M JOSHI, JUDICIAL MEMBER
AND
SHRI ARVIND SONI , ACCOUNTANT MEMBER

ITA No.713/Ind/2025
(AY: 2011-12)

DEEPIKA, 301, Bhagana B.O. Baghana, Indore, 453111 **(PAN:BNUPD1417N)**	बनाम/ Vs.	ITO, Indore
(Appellant)		(Respondent)
Assessee by	Sh. Rishi Kant Katare,CA & Sh. Ayush Goyal, Adv.	
Revenue by	Shri Binay Kumar Rai, Sr.DR	
Date of Hearing	12.10.2026	
Date of Pronouncement	22.10.2026	

आदेश / O R D E R

Per Paresh M Joshi, J.M:

This is an appeal filed by the Assessee under section 253 of the income tax Act 1961,[hereinafter referred to as the **Act** for the sake of brevity] before this tribunal, as & by way of a second appeal .The Assessee is aggrieved by the order bearing No:-ITBA/NFAC/S/250/2022-23/1047986032(1) dated **14.12.2022** passed by the Ld. CIT(A) u/s 250 of the Act, which is hereinafter referred to as the **"Impugned order".** The Relevant Assessment year is 2011-12 and the

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corresponding previous year period is from 01.04.2010 to 31.03.2011.

2. **Factual Matrix**

2.1 That as and by way of an Assessment order **made u/s 147/143(3) of the Act,** the total income of the assessee was computed and assessed at **Rs. 20,46,000/-. The assessee was a non-filer.**

2.2 That as per the annual information report **[AIR]** filed by the sub registrar, the assessee had **purchased a immovable property valued at Rs. 57,05,000/-. No PAN was quoted while making high value transaction. A letter was initially written** to the assessee by the department to furnish her PAN card copy, copy of ITR and **an explanation for the transaction reported in AIR. No reply was received from the assessee in this regard.**

2.3 In view of the above the department had **"a reason to belief"** that the assessee had failed to offer income from

capital gain on the sale of property and that her income chargeable to **tax has escaped the assessment for AY 2011-12. Reasons were recorded** and approval was taken and thereafter **a notice u/s 148 was issued on 20.03.2018** which was duly served through speed post on **22.03.2018**.

2.3 That a **ROI** in compliance to the **notice u/s 148** was filed by the assessee on **19.04.2018**. Statutory notice(s) u/s 143(2) and 142(1) were issued to the assessee and were placed on the record. The assessee was represented by CA from time to time.

2.4 That in the Impugned Assessment Order at Para 4 it is recorded as under:-

> ***"4. From copy of registered deed obtained from the Sub registrar, it is seen that the assessee, along with two co-purchasers, has purchased 8.150 hectares agricultural land bearing survey no. 112 at Village: Bavalyakhedi vide deed dated 30/03/2011 for a stated***

consideration of Rs. 57,05,000/-. The market value of the immovable property is also assessed by the stamp valuation authority at Rs. 57,05,000/-. As regards the source of investment in purchase of immovable property, it is submitted by the assessee's Ld. Counsel that "Assessee acquired Agricultural land through sale of agricultural land by her mother in law whose address is 19(New No.-51), Village Bhangya, Tehsil Sanwer, Indore". He was asked to furnish confirmation and evidences regarding the source of funds. A written submission was filed by the Ld counsel on 11/12/2018 enclosing copy of an affidavit of Smt. Deepika Mourya wherein she has stated -

"1. That, My mother-in-law Smt. Asha Mourya W/o Ramesh Chandra Mourya resident of Gram Bhangya having PAN CYHPB0159E has sold an agricultural land situated at Patwari Halka No. 19 (New No. 51), Gram Bhangya, Tehsil

Sanwer, Dist. Indore for Rs. 1,52,00,000/- on 20.05.2010.

2. That, from sales consideration of agricultural land sold as mentioned in point 1 above, three agricultural lands were purchased. Out of which one agricultural land is situated at Survey No. 112, Village Bavlyakhedi, Tehsil sanwer, Dist. Indore was purchased in my name along with my two sister-in-law Deepika Mourya and Neha Mourya on 30.03.2011 for Rs. 57,05,000/-…"

2.5 That in the "Impugned Assessment Order" it is further recorded as under in Para 5, 6, 7 & 8 which is reproduced by us as follows:-

"5. Thus, it is stated that investment of Rs. 57,05,000/- was made in purchase of land by the assessee and her sisters-in-law and that the source of funds are sale proceeds of land sold by their mother-in-law Smt. Asha Mourya.

Copy of confirmation of Smt. Asha Mourya in the form of an affidavit stating that she had sold agricultural land for Rs. 1,52,00,000/- on 20/05/2010 and that from such sales consideration, three different pieces of land, including the land in question were purchased is submitted. Copy of registered deed of land sold by Smt. Asha Mourya on 20/02/2010 is submitted in support of such contention. However, perusal of sale deed dated 20/02/2010 reveals that the sale consideration for such land is Rs. 41,00,000/- only and not Rs. 1,52,00,000/- as claimed. The authorized representative of the assessee, who attended on 11/12/2018 was asked to explain why, in view of sale deed produced by him, it should not be held that Smt. Asha Mourya had received only Rs.41,00,000/- from sale of land. It is stated that at present he is unable to produce any evidence or document in support of his claim.

Thus, the assessee failed to substantiate her claim with any documentary evidence and it is held that the consideration actually received by Smt. Asha Mourya was Rs. 41,00,000/-and not Rs. 1,52,00,000/- as claimed.

6. Moreover, from copy of bank statement of Smt. Asha Mourya also, it is seen that only a sum of Rs. 41,00,000/- is credited to her bank account. Thus, the claim that land was sold by Smt. Asha Mourya for Rs. 1,52,00,000/- is not correct. Moreover, it is observed that the sale consideration of Rs. 41,00,000/- credited to the bank account of Smt. Asha Mourya on 22/05/2010 was entirely withdrawn by her through self cheques -Rs. 30,00,000/- on 22/05/2010 and Rs. 11,00,000/- on 24/05/2010. However, immovable property was purchased by Smt. Deepika Mourya, Smt. Renu Mourya and Smt. Neha Mouya on 30/03/2011, i.e., after a lapse of more than 10 months. Thus, there is

no nexus between the funds available with Smt. Asha Mourya in May 2010 and investment made by Smt. Deepika Mourya, Smt. Renu Mourya and Smt. Neha Mouya in March 2011.

7. Further, from the details submitted by the assessee, it is seen that Smt. Asha Mourya had purchased another land for a consideration of Rs. 51,20,000/- in her own name and in the names of her sons. The source of such investment is also stated to be sale proceeds of the same land. As mentioned above the sale consideration of land sold by Smt. Asha Mourya as per registered deed is Rs. 41,00,000/-. Such funds are used by her to purchase land in her own name and there remains no surplus which could be passed on by Smt. Asha Mourya to her daughters in law for purchase of land. Hence, on this count also, the claim of the assessee regarding the source

of funds for purchase of immovable property by her and her sisters in law in incorrect.

8. In view of the facts as discussed above, the contention that the source of investment made by Smt. Deepika Mourya, Smt. Renu Mourya and Smt. Neha Mouya for purchase of immovable property is sale proceeds of land received by their mother-in-law Smt. Asha Mourya is found to be unsubstantiated and totally incorrect. Therefore, explanation offered by the assessee is rejected."

2.6 In view of the above the Ld. AO in the Impugned Assessment Order has further observed as under in Para 9 which is reproduced by us as below:-

"9. The total investment in purchase of land by Smt. Deepika Mourya, Smt. Renu Mourya and Smt. Neha Mouya comes to Rs. 61,38,000/- (Consideration Rs. 57,05,000 + Stamp Duty, etc Rs. 3,86,520 + Registration Fees Rs. 45,810 +

Misc Exp (say Rs. 670)]. The assessee, being one of the three co-purchasers, her proportionate share of total investment of Rs. 61,38,000/- comes to Rs. 20,46,000/-. As discussed above, the assessee has not been able to satisfactorily explain the source of such investment."

2.7 That the aforesaid assessment order is hereinafter referred to as the **"Impugned Assessment Order"** for the sake of brevity and ease and that the same is dated 20.12.2018.

2.8 That the assessee being aggrieved by the aforesaid **"Impugned Assessment Order"** prefers the **first appeal u/s 246A of the act** before the Ld. CIT (A) who by the **"Impugned Order"** has **dismissed the first appeal of the assessee** on the grounds and the reasons stated therein. The core grounds and the reasons for the dismissal of the first appeal were as under:-

"5.3 Findings and Decision

I have carefully considered the written submissions of the Ld. AR and the findings of the Ld. AO, contextualized these to the facts of the case. The only issue in this case is the source of investment of Rs. 20,46,000/- made by the Assessee in purchase of agricultural land. The appellant has tried to explain the source of investment as sale of agricultural land by the mother-in-law Smt. Asha Maurya, for a claimed amount of Rs. 1,52,00,000/-. However, the registered sale deed for the said land shows a consideration of only Rs. 41,00,000/-. Hence the AO held that the source of the investment made by the Assessee has not been satisfactorily explained and added the entire sum u/s 69 as unexplained investment. Now it is a general practice in rural areas to have the land registered in name of the women of the family to get benefits in rate of stamp

duty and the same is also encouraged to improve the status of women in society. It is not abnormal to have the funds available from sale of family agricultural land held in the name one member, invested in the name of another family member. This appears to have happened in this case, whereby the funds available from the sale of land in the name of Smt. Asha Maurya have been invested in the name of the three daughters-in-law, one of whom happens to be the Assessee.

However, the appellant has claimed that the total sale consideration of the land sold in the name of Asha Maurya was Rs. 1,52,00,000/-, whereas the registered sale deed shows an amount of Rs. 41,00,000/- only. The appellant has furnished as affidavit of Smt. Asha Maurya, but the registered sale deed is a much more authentic document and carries more weight. Hence the benefit of this source can be

given to the appellant only to the extent of Rs. 13,66,666/- (1/3 of Rs. 41 lakhs). Accordingly, it is held that the source of investment to the extent of this amount is explained by the appellant, and the balance addition of Rs. 6,79,334/- made by the AO u/s 69 of the Actis hereby confirmed. The grounds of appeal no. 2 to 5 are partly allowed.

06. In the result, the appeal is partly allowed."

2.9 That the assessee being aggrieved by the **"Impugned Order"** has preferred the instant second appeal before this tribunal and has raised the following grounds of appeal in the form no. 36 against the **"Impugned Order"** which are as under:-

"1. The Ld. CIT has erred in partly allowing the assessment order which is bad in law.

II. That, the Learned CIT has erred in confirming addition to the extent of Rs.

6,79,334/- on account of tax under section u/s 69 of the Income Tax Act 1961, which is bad in law. Investment of Rs. 20,46,000/-made by the Assessee in purchase of agricultural land is sale consideration of the land sold in the name of Asha Mourya for Rs. 1,52,00,000/- who is mother in law of appellant and Learned Commissioner of Income Tax (Appeals) has erred in accepting that the land sold by appellant mother-in-law Smt. Asha Mourya was sold for Rs. 1,52,00,000/- on 20.02.2010.

III. That the Learned CIT has erred in passing the order in the part where Rs. 6,79,334/- is disallowed. Hence, we request your good self to kindly reconsider the same.

IV. That the appellant further craves leaves to add, alter and/or amend any of the foregoing

Grounds of Appeals as and when considered necessary."

3. **Record of Hearing**

3.1 The hearing in the matter took place before this Tribunal on 12.10.2026 when the Ld. AR for & on behalf of the Assessee appeared before us and interalia contended that the **"Impugned Order"** is bad in law, illegal and not proper. It therefore deserves to be set aside.

3.2 The Ld. AR has placed on the record of this tribunal a paper book containing pages 1 to 22 in support.

3.3 The Ld. AR then pointed out to us that the registry has pointed out the delay of 906 days in preferring the second appeal and that in this regard a condonation of delay application is placed on the record along with an affidavit dated 09.10.2026. It was pleaded by the Ld. AR that the date of Impugned Order is 14.12.2022 whereas the date of filing is

25.08.2025. There is thus a delay of 908 days. It was submitted that the assessee was not aware of the passing the "Impugned Order". Later when she came into contact with the Ld. AR in connection with some other matter and who upon checking the income tax portal informed her about passing of the Impugned Order and this was around **06.08.2025**. It was only upon the Ld. AR checking the portal on **06.08.2025** that she became aware of passing of Impugned Order dated 14.12.2022 and thereafter immediately on **25.08.2025** instant second appeal was filed. The Ld. AR then placed reliance on an affidavit dated 09.10.2026 wherein the above facts are **deposed and affirmed**. Per contra the Ld. DR left the issue of the delay condonation on the wisdom of this tribunal to take an appropriate call. The contents of the affidavit were however not disputed by the Ld. DR basis any cogent grounds and reasons. After hearing both the Ld. AR and the Ld. DR and further examining the condonation of delay application including an affidavit in support thereof we find that sufficient cause is shown for the delay condonation and

accordingly we condone the delay and admit the appeal with admonition to the assessee that such a lethargic approach are not acceptable and that she should be extra vigilant.

3.4 The Ld. AR then submitted that the assessee is connected with agriculture activities and has a agriculture income. In the "Impugned Assessment Order" total income is assessed is at Rs. 20,46,000/- as an unexplained investment u/s 69 of the Act. **The Ld. AR also spoke about some fraud being played on the assessee and family members however no details were furnished**. It was submitted that the assessee along with other two co-purchasers [family members] had purchased a 8.150 hectares of agricultural land vide deed dated 30.03.2011 for Rs. 57,05,000/-. In so far as sources of money is concerned it was submitted that the assessee's mother in law Smt. Asha Mourya had sold agriculture land on 20.05.2010 and proceeds of such sale were gifted to her. In this regard out attention was invited to PB page 18 which was copy of **"agreement to sell"** between Asha Mourya and one Gold City Developers showing a

consideration of **Rs. 40,00,000/-.** It was also submitted that **total consideration payable was of Rs. 1.60 Cr** [PB page 20]. The **"agreement of sell" was not a registered one**. Few portion of "Impugned Order" at internal page 5 were then read out. Per contra the Ld. DR has placed reliance on the orders of the lower authorities and stated that same be upheld and addition be sustained. Hearing was then over and was closed.

4. **Observations Findings & conclusions**

4.1 We now have to decide the legality, validity and the proprietary of the **"impugned order"** basis records of the case & the rival submission canvassed before us.

4.2 We have carefully perused the records of the case and have heard the submissions.

4.3 We basis records of the case & after hearing & further upon examining the rival contentions of the Ld. AR & the Ld. DR canvassed before us are of the considered opinion that in

the **"Impugned Assessment Order"** the consideration received by Smt. Asha Mourya was actually **Rs. 41,00,000/- against Rs. 1,52,00,000/- whereas basis PB page 18 & 20 which is "agreement of sell" (supra)** we notice and observe that the consideration of Rs. 40,00,000/- was received on 30.04.2010 [PB page 19]. It was further agreed therein between the parties to the said agreement that remaining 25% of the amount of Rs. 40,00,000/- would be paid **within 5 months** from 30.03.2010 and further remaining Rs. 80,00,000/- **within 9 months from 30.03.2010.** This document is only **"agreement to sell" and no date is mentioned although on PB page 19** it is stated that Smt. Asha Mourya received Rs. 40Lakh on 30.04.2010. This fact is in sharp contradiction with what is recorded by the Ld. AO in the **"Impugned Assessment Order",** as the Ld. AO has gone by bank statement [supra].

4.4 We further observe and notice basis PB page 15 which is a copy of affidavit dated 10.12.2018 of Smt. Asha Mourya wherein she has deposed that she had sold the land on

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20.05.2010 for Rs. 1,52,00,000/- and thereafter three agriculture lands were purchased for total of Rs. 1,14,44,500/-. The second land was purchased on 30.03.2011 in name of three daughters in law including the assessee for Rs. 57, 05,000/- [PB page 17].

4.5 In light of above observation we notice that the proceedings of assessment has been **conducted on uncertain facts as documents are at variance with the findings recorded in the "Impugned Assessment Order". "Agreement of sell" speaks of total consideration of Rs. 1.60 Cr whereas affidavit speaks of consideration of Rs. 1.52 Cr basis date of 20.05.2010 [no sale deed/ no agreement of sale on record]**. What is on the record is **"agreement to sell" undated with only one date** i.e. showing receipt of Rs. 40 Lakhs against Rs. 1.60 Cr [PB page 19]. The entire foundation of addition is basis uncertain facts. No bank statement is on record. **The assessee and her larger family appear to be a rural agriculture family**. We have minutely Perused **the history of the case too basis PB**

page 3 to 8. Under these peculiar facts and circumstances which speaks about Rural India we deem fit to set aside the **Impugned Order** and remand the case back to the file of the Ld. AO on de novo basis with a direction to ascertain the full and complete facts basis documents first, i.e. **"actual sale deeds"** executed by the Smt. Asha Mourya and **not to follow "agreement of sell" and affidavit as actual sale deed executed by Smt. Asha Mourya has credibility over any other documents like agreement to sell which is not even dated and affidavit which too is also at variance with consideration provided for in the agreement of sell. We simultaneously hold that the income cannot be determined in a parrot like fashion basis assumption and presumptions.**

4.6 In the premises laid down by us we set aside the Impugned Order and remand the case back to the file of the Ld. AO on de novo basis.

5 **Order**

5.1 In the result **Impugned Order** is set aside as and by way of remand back to the file of the Ld. AO on de novo basis.

5.2 **The appeal of the Assessee is allowed for statistical purpose.**

Pronounced in open court on 22.10.2026.

Sd/-	**Sd/-**
(ARVIND SONI)	**(PARESH M JOSHI)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Indore
Dated : 22 /10/2026

Copies to:
(1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Senior Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore

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