

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C': NEW DELHI**

**BEFORE SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER
AND
MS. MADHUMITA ROY, JUDICIAL MEMBER**

**ITA No.547/Del/2026
(ASSESSMENT YEAR:2016-17)**

Maheepal C/o Rakesh Khiwani and Co., E-8, Kirti Nagar, New Delhi-110015. PAN-BBTPM9608P	v.	Income Tax Officer, Ward-5(1)(5), Noida.
(Appellant)		(Respondent)

Assessee by	Shri Rakesh Kumar Khiwani, CA
Department by	Shri Om Prakash, Sr. DR
Date of Hearing	21.05.2026
Date of Pronouncement	05.06.2026

ORDER

PER RAMIT KOCHAR, AM:

This appeal in ITA No.547/Del/2026 for Assessment Year: 2016-17 has arisen from the learned CIT(A) appellate order u/s 250 dated 17.11.2025 in DIN & Order No: ITBA/NFAC/S/250/2025-26/1082683604(1), which in turn has arisen from the assessment order dated 21.03.2024 passed by the AO u/s 147 r.w.s 144 r.w.s. 144B of the Income-tax Act, 1961.

2. Brief facts of the case are that assessee has not filed Income Tax Return (ITR) for Assessment Year 2016-17 u/s 139 of the Income Tax Act. The information was received by the AO , as under:

SN	Details of the information	Source of Transaction	A.Y.	Amount of the transaction (in Rs.)
1	TDS Statement-Sales consideration on sale of immovable property (Section	Kanchan Nagar	2016-17	75,00,000

	194IA)			
	Total			75,00,000

3. Based upon the information received, the AO initiated proceedings of u/s 147/148 of the Act. The enquiry was conducted u/s 148A(b) of the Act and order was passed by the AO u/s 148A(d) of the Act. The assessee did not participated in the aforesaid enquiry conducted by the AO. Thereafter, notice u/s 148 was issued to the assessee by the AO , dated 22.03.2023, to file return of income in response to notice issued u/s 148. There was no compliance of the notice by the assessee , and no return of income was filed by the assessee in pursuance to notice issued u/s 148. Thereafter, during the course of reassessment proceedings, notices u/s 142(1) were issued by the AO to the assessee, and SCN was also issued. The assessee participated in the reassessment proceedings. The case of the assessee was reopened by the Revenue on the ground that the assessee has entered into transactions of Rs.75,00,000/- of sale of immovable property during the year under consideration with respect to the Kanchan Nagar. The assessee categorically denied before the AO to having entered into any sale of immovable property. The assessee submitted his bank pass book before AO to submit that there was no receipts for sale of any property in his bank statement. The assessee also submitted that the information in the portal of the department is by way of information filed by the Deductor of TDS, but the assessee has not entered into any such transaction for sale of immovable property during the year under consideration . The assessee submitted that he has not filed his return of income because assessee was not having any income chargeable to income-tax. But since this information was appearing in the portal of the Department , and the Deductor has not deleted the said transaction, the assessee cannot be penalized for the same. The AO brought to tax income of Rs.75,00,000/- in the hands of the assessee as short term capital gain.

4. The assessee filed first appeal with Id. CIT(A) , and reiterated his contention before Id. CIT(A) that the assessee has not entered into any such transaction of sale of property of Rs.75,00,000/-. The assessee also brought to the notice of Ld. CIT(A) bank statement

wherein no such transaction of sale of immovable property was appearing. The assessee submitted that assessee has no income chargeable to tax and, hence, no return of income was filed. The assessee also submitted that the assessee has no right to rectify the said information in the portal of the Department , and it is only the Deductor who can rectify the information , and the assessee cannot be penalized for the wrong information filed by the Deductor being the so called purchaser of the property from the assessee. The assessee also requested Id. CIT(A) to direct Ld. AO to conduct enquiry from the Sub-Registrar office as well to conduct enquiry with the alleged purchaser of the property being Deductor of TDS who has filed return of TDS . It was submitted that no independent enquiry or cross examination was undertaken by the AO , and assessee is penalized for no fault of the assessee. The Ld. CIT(A) rejected the contention of the assessee as the amount of Rs.75,00,000/- with respect to the sale of immovable property is appearing in the name of the assessee in the portal of the department and, hence, the appeal of the assessee was dismissed.

5. Assessee being aggrieved has filed second appeal with the Tribunal, and Ld. Counsel for the assessee reiterated its submissions as were made before the authorities below wherein the assessee denied to have entered into any transaction with respect to sale of any property for Rs.75,00,000/- during the year under consideration. The Ld. Counsel for the assessee submitted that the assessee has unnecessarily being harassed by Department , and no detail of the property which ostensibly has been sold by the assessee is brought on record by the department. It was submitted that complete details of bank account were submitted before the authorities, but the Revenue has not given details of property ostensibly sold by the assessee . It was submitted that neither the AO nor CIT(A) made any enquiry with the office of Sub-Registrar to find out the details of property sold by the assessee. It was submitted that no enquiry has been made with the so called purchaser of the property who has filed the TDS details with in the portal of the

Department by way of TDS deducted on behalf of the assessee, and assessee is unnecessarily penalized.

6. We have considered rival submissions and perused the materials available on record. We have observed that the assessee did not file any return of income u/s 139 of the 1961 Act. We have observed that the assessee has claimed that the assessee's income was below taxable limit, and hence no return of income was filed by the assessee. The revenue has got the information from the portal based upon information filed by the purchaser of the immovable property that assessee has sold property for Rs.75,00,000/- at Kanchan Nagar. Based upon the said information, the Revenue invoked provisions of Section 147/148 of the Act and the assessment was reopened. The assessee has been consistently denying before all the authorities that assessee has not entered into any such transactions of sale of property to the tune of Rs.75,00,000/- during the year under consideration. The assessee also produced bank statement, and the assessee claimed that this is the only bank account maintained by the assessee with Punjab National Bank, Account No.3659000100042538, and there is no such transaction of Rs.75,00,000/- in his bank account. We have observed that Revenue has not even disclosed the detail of the property sold by the assessee. We have observed that no enquiry has been conducted by the Revenue with the purchaser of the said property who has filed the information in the portal of the department while deducting tax at source and filing of return of TDS. We have also observed that no enquiry has been made by the authorities below with the office of the Sub-Registrar to find out the details of the property sold by the assessee during the year under consideration. The assessee is consistently and continuously denying having sold any property, and the assessee cannot be asked to prove negative. Once the assessee has denied to have made transaction, the onus has shifted to the Revenue to bring on record cogent and conclusively evidence/information to prove that the assessee has sold property during the year and/or received sale consideration for the sale of property during the year under consideration to fasten the liability to tax in the hands of the assessee. The Revenue has failed to bring on record details of the property

which has been sold by the assessee. It is pertinent to mention that the Revenue has all the details of the purchaser of the property in its portal from where the Revenue could have captured the said information and could have issued notices u/s 133(6) and/or 131 of the Act to the purchaser of the property who has filed TDS return in which PAN of the assessee was used as seller of the property, to unravel the truth, but it appears no such efforts were made by both the authorities below. Even before us no conclusive and clinching evidence is brought on record by Revenue to prove that the assessee has sold any immovable property during the year under consideration, and the assessee's income has escaped assessment. Under these facts and circumstances, we are of the considered view that the additions as were made by the AO and as sustained by Id. CIT(A) are not sustainable and hence we are ordering for deleting the additions as were made by the Revenue and allowing the appeal of the assessee on this ground on merits. However, at the same time, we give liberty to Revenue to file for recall of this order if the Revenue has conclusive/clinching evidence to prove that the assessee had in fact sold immovable property during the year under consideration, and this order has been obtained by the assessee by fraud or misrepresentation. We order accordingly.

7. In the result, the appeal filed by the assessee is allowed in the manner as indicated above.

Order is pronounced in the Open Court on 05.06.2026.

Sd/-

(MADHUMITA ROY)
JUDICIAL MEMBER

Dated: 05.06.2026

PK, Sr. Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(RAMIT KOCHAR)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI