

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD "D" BENCH

**Before: Shri Siddhartha Nautiyal, Judicial Member And  
Shri Makarand Vasant Mahadeokar, Accountant Member**

<b>ITA No: 1174/Ahd/2025 Assessment Year: 2018-19</b>
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Meenaz Anjum Dayatar Plot No. 22 R N 1497, Lotus Colony, Govandi, Mumbai, Maharashtra-400043  <b>PAN:AEPPK5306Q</b>  <b>(Appellant)</b>	Vs	The ITO, Ward-1(8), Bhavnagar     <b>(Respondent)</b>
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**Assessee Represented: Shri Huzefa M. Mala, A.R.**  
**Revenue Represented: Shri Amit Pratap Singh, Sr.D.R.**

Date of hearing : 24-09-2025  
Date of pronouncement : 25-09-2025

**आदेश/ORDER**

**PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-**

This appeal is filed by the Assessee as against the appellate order dated 06.03.2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, (in short referred to as "CIT(A)"), arising out of the assessment order passed under section 147 r.w.s. 144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') relating to the Assessment Year 2018-19.

2. The assessee has raised the following Grounds of Appeal:

**1) Ground No. 1: Deprivation of Principles of Natural Justice.**

*Your appellant pleads that she is a home maker and does not have any taxable income and hence regularly does not check emails. Her spouse had expired and her brother has sold off her said property. Due to this, she is not expected to check her emails and has not received any physical notice. She has updated her postal address but she has never received any notices. Hence, in the impugned assessment order she has been deprived of an opportunity of hearing on the grounds of principle of natural justice.*

**2) Ground No. 2: Not Allowing Cost of Acquisition against Sale of Property for Rs. 1,15,00,000/-**

*Your appellant had transferred one of the immovable property for Rs 1,15,00,000/-. The Ld. AO has computed income at full rates tax on full value of consideration without allowing any Cost of Acquisition, including indexation thereon. Tax u/s 45 only be levied at special rates on Taxable Capital Gains and not on Full Transfer Value of Property and hence, the revenue is duty bound to consider her indexed purchase cost of the property for levying tax and cannot be considered arbitrarily as income u/s 68 of the ITA, 1961. The same facts were put forth before the CIT(A) to refer the matter for valuation with Departmental Valuation Officer with plead to set aside the order before the Ld. AO to give her a fair trial and representation in her case. However, the said plead was not considered by the CIT(A) and order has been passed.*

**3) Ground No. 3: Addition of Cash deposits of Rs. 8,89,500/- u/s 68:**

*On facts and circumstances, Ld. CIT(A) has erred in confirming the additions as unexplained cash credits. Such direction by Ld. CIT(A) is bad in law and erroneous in facts and thereby Ld. CIT(A) be directed to delete the addition of Rs. 8,89,500/-.*

*4. The Appellant craves leave to add, alter, rescind or amend any of the above grounds of appeal.*

3. The brief facts of the case are that the assessee, Shri Meenaz Anjum Dayatar, did not file the return of income for A.Y. 2018-19. Based on the information available in the Insight Portal, the Assessing Officer noticed that the assessee had deposited cash of Rs. 8,89,500/- in a bank account held with Bank of Baroda and the assessee had also sold immovable property valued at Rs.1,15,00,000/-. Since the assessee had not filed any return of

income, these transactions were not disclosed to the Department. The Assessing Officer reopened the case under section 147 of the Act, however, despite issue of repeated notices under section 142(1) of the Act, the assessee failed to respond or submit nor did the assessee filed explanation regarding the cash deposits and the sale of property. Accordingly, the Assessing Officer treated the amount of Rs. 1,23,89,500/- as unexplained income of the assessee and added the same to the total income of the Act and determined the total income at Rs. 1,23,89,500/-.

4. Aggrieved, the assessee filed an appeal before the Learned CIT(A). In the appellate proceedings, CIT(Appeals) issued several notices on different dates, however, the assessee did not file any reply and nor did she attend the appellate hearings. The CIT(A) observed that despite ample opportunities, the assessee neither filed any written submissions nor supported the grounds of appeal. Accordingly, the CIT(A) held that an appeal does not mean mere filing of a memo but requires effective pursuance, and in the absence of any response, adverse inference had to be drawn. After considering the facts of the case, the assessment order, and the grounds of appeal, the CIT(A) found no merit in the contentions of the assessee and upheld the findings of the Assessing Officer. Consequently, the addition of Rs. 1,23,89,500/- was confirmed, and the appeal was dismissed.

5. The assessee is in appeal before us against the order passed by CIT(Appeals) dismissing the appeal of the assessee. Before us, the Counsel for the assessee submitted that the assessee is a

homemaker with no regular taxable income and was not in the habit of checking emails. It was submitted that the spouse of the assessee had expired and the impugned property was sold by the assessee's brother. Due to these circumstances, the assessee was not likely to monitor electronic communications and she never received any physical notices, despite having updated her postal address. Accordingly, the assessee was deprived of an effective opportunity of being heard, and the assessment order has been passed in violation of the principles of natural justice. The Counsel further submitted that the assessee had transferred one immovable property for a consideration of Rs. 1,15,00,000/-, but the Learned Assessing Officer computed income on the full value of the property without allowing the benefit of cost of acquisition and indexation. It was submitted that tax under section 45 of the Act is leviable only on capital gains, being the difference between sale consideration and indexed cost, and not on the gross sale value. Therefore, treating the entire amount of Rs. 1,15,00,000/- as income under section 68 of the Act was arbitrary and contrary to the provisions of law. The Counsel pointed out that the same plea was made before the Learned CIT(A), and a request to refer the matter to the Departmental Valuation Officer was also made, but the request was ignored by CIT(Appeals) and he passed the appellate order mechanically. The Counsel also disputed the addition of Rs. 8,89,500/- on account of alleged unexplained cash deposits under section 68 of the Act, and submitted that the authorities erred in confirming the addition without appreciating the facts and circumstances of the case. The Counsel for the assessee submitted that such addition was unjustified and deserves to be deleted. The

Counsel for the assessee submitted that the impugned additions be deleted or in the alternative, the matter be restored for fresh adjudication after granting the assessee a fair and reasonable opportunity of hearing.

6. In response, the Ld. DR placed reliance on the observations made by the Assessing Officer and Ld. CIT(Appeals) in their respective orders.

7. We have heard the rival contentions and perused the material on record. The facts emerging from the record show that the assessment in the present case was framed ex-parte under section 147 read with section 144 of the Act on the ground that the assessee did not file the return of income and also failed to respond to notices issued under section 142(1) of the Act. The Assessing Officer, therefore, treated the entire sum of Rs. 1,23,89,500/- as unexplained income. In appeal, the Learned CIT(Appeals) also dismissed the appeal ex-parte observing that the assessee did not respond to notices or pursue the appeal and thus confirmed the assessment order. Before us, the Counsel for the assessee has submitted that the assessee is a homemaker with no regular taxable income and was not in the habit of checking emails, that she lost her spouse, and the impugned property was sold by her brother. It was contended that no physical notices were ever received despite updating the postal address and hence the assessee was deprived of an effective opportunity of being heard. It was further submitted that the assessment was completed without allowing cost of acquisition and indexation against the sale

consideration of Rs. 1,15,00,000/- and that the entire sum was incorrectly treated as income under section 68 of the Act. The Counsel has also disputed the addition of Rs. 8,89,500/- as unexplained cash deposit. Having considered the facts of the case and the rival submissions, we are of the view that the assessee has been denied a fair and reasonable opportunity of presenting her case both before the Assessing Officer as well as the Learned CIT(Appeals). The plea of the assessee that she was unaware of the proceedings due to personal circumstances cannot be lightly brushed aside. In the interest of justice, we are of the considered opinion that the matter requires fresh adjudication at the level of the Assessing Officer. We, therefore, restore the matter to the file of the Assessing Officer with the direction to decide the case afresh after giving the assessee adequate opportunity of being heard and to pass a speaking order in accordance with law. The assessee is also directed to extend full cooperation in the proceedings.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 25-09-2025
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**Sd/-**  
**(MAKARAND VASANT MAHADEOKAR)**  
**ACCOUNTANT MEMBER**  
**Ahmedabad : Dated 25/09/2025**

**Sd/-**  
**(SIDDHARTHA NAUTIYAL)**  
**JUDICIAL MEMBER**

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT

4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार  
आयकर अपीलीय अधिकरण,  
अहमदाबाद

