

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI B.M. BIYANI, ACCOUNTANT MEMBER
AND
SHRI PARESH M. JOSHI, JUDICIAL MEMBER

ITA No. 726/Ind/2024 (AY: 2014-15)

ITO-2(1) Indore	<u>बनाम /</u> Vs.	Gurdeep Singh Chhabra, 10, Adarsh Nagar, Indore
(Revenue/Appellant)		(Assessee/Respondent)

Cross-Objection No. 14/Ind/2025 (AY: 2014-15)

Gurdeep Singh Chhabra, 10, Adarsh Nagar, Indore	<u>बनाम /</u> Vs.	ITO-2(1) Indore
(Assessee/Cross-Objector)		(Revenue/Respondent)

PAN: ABKPC5598A	
Assessee by	Shri S.S. Sheetal & Prabhpreet Sheetal, ARs
Revenue by	Shri Ashish Porwal, Sr. DR
Date of Hearing	01.10.2025
Date of Pronouncement	16.10.2025

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by order of first appeal dated 08.08.2024 passed by Commissioner of Income-tax (Appeal)-NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 30.05.2023 passed by Assessment Unit of Income-tax Department ["AO"] u/s 147 r.w.s. 144B of the Income-tax Act, 1961 ["the Act"] for assessment-year ["AY"] 2014-15, the revenue has filed captioned appeal and the assessee has filed captioned cross-objection.

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2. The background facts leading to these matters as culled out from orders of lower-authorities and as explained by Ld. AR for assessee during hearing, are as under:

- (i) The assessee-individual filed his return of AY 2014-15 on 29.03.2016 declaring a total income of Rs. 4,31,880/- which was assessed. Subsequently, the AO received an information that the assessee, jointly with Shri Ranveer Singh Chhabra (brother of assessee), sold an immovable property for Rs. 2,25,00,000/- (valued by Stamps Authority at Rs. 4,15,20,000/-). Based on this information, the AO framed a belief that the transaction done by assessee had escaped assessment. Accordingly, the AO issued notice dated 22.04.2021 (after expiry of 6 years from end of relevant AY 2014-15) u/s 148 to re-open assessee's case of AY 2014-15 under erstwhile provision of section 147, relying upon the relaxations under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 ["TOLA"] read with Notification No. 38/2021 dated 27.04.2021 extending time-limit upto 30.06.2021 for issuance of notice u/s 148. In response to this notice, the assessee filed return on 02.09.2021. At the same time, the assessee also filed objection against the action taken u/s 147 after expiry of 6 years' period and further claiming that the new scheme of section 147 had already come in statute w.e.f. 01.04.2021, therefore the notice is illegal. Identical objection also came up before Hon'ble Supreme Court in the matters of other assesseees and the Hon'ble

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Supreme Court decided ***Union of India Vs. Ashish Agarwal (2022) 138 taxmann.com 64 (SC), order dated 04.05.2022*** giving certain directions. The AO dropped proceedings taking into account the submission of assessee in the light of decision of Hon'ble Supreme Court.

- (ii) However, the AO re-initiated proceeding under the new scheme of section 147. For this purpose, the AO *firstly* issued a preliminary show-cause notice dated 21.05.2022 u/s 148A(b) inviting assessee's explanation as to why notice u/s 148 should not be issued? The notice issued by AO is scanned and re-produced below:

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**GOVERNMENT OF INDIA
 MINISTRY OF FINANCE
 INCOME TAX DEPARTMENT
 OFFICE OF THE INCOME TAX
 OFFICER
 ITO 2(1), IND/**

To, GURDEEP SINGH CHHABRA 10, ADARSH NAGAR INDORE 452001, Madhya Pradesh India	
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PAN: ABKPC5598A	Assessment Year: 2014-15	Dated: 21/05/2022	DIN & Letter No : ITBA/COM/F/17/2022-23/1043107260(1)
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Sir/ Madam/ M/s,

Subject: Subsequent proceedings with reference to section 148A(b) in consequence to Hon'ble SC Order dated 04.05.2022 - Letter

Please refer to the notice under section 148 of the Income Tax Act, 1961 dated 22 /04/2021 for the Assessment Year as mentioned above.

In compliance to the judgement for the Hon'ble Supreme Court dated 04/05/2022 in Civil Appeal No. 3005/2022 in case of Union of India and others Vs. Shri Ashish Agarwal and others, the information available in this office, which suggest for income escaping assessment within the meaning of the provisions of section 147 of the Income Tax Act, 1961, is being provided to you as per below:

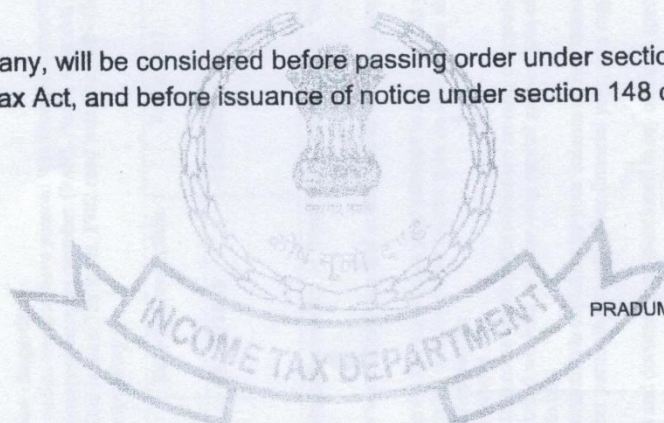
You have filed your Income Tax Return for the year under consideration on 29/03/2016 declaring total income at Rs. 431881/-. In this case, it is learn that you have sold immovable property within the municipal limit of Indore for which stamp duty value is at Rs. 41520000/-. Since you have not offer the capital gain in your Income Tax Return for the year under consideration, hence, it is clear that sale consideration of Rs. 41520000/- on account of capital gain escaped taxation in your hands.

In view of the above narrated facts the source of the amount i.e. Rs. 41520000/- remains unexplained and therefore escaped assessment to that extent for the financial year under consideration within the meaning of provision of section 147 of the Income Tax Act, 1961."

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You are hereby show caused and been given one more chance to explain as to why an order under section 148A(d) of Income Tax Axt,1961 should not be passed holding that it is a fit case for issue of notice under section 148 of Income Tax Axt,1961 and notice under section 148 of Income Tax Act should not be issued for the Assessment Year as mentioned above. Please submit your reply/submission on above issue with documentary evidences in compliance of the order of the Hon'ble Supreme Court, referred supra, within two weeks (i.e 14 days) from the date of receipt of this letter/notice electronically in e-proceedings facility through your account in e-filing portal of Income Tax Department.

Your reply, if any, will be considered before passing order under section 148A(d) of the Income Tax Act, and before issuance of notice under section 148 of Income Tax Act.



PRADUMAN KUMAR MISHRA
 ITO 2(1), IND/

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

In response to above notice, the assessee filed reply dated 04.06.2022 [Page 74 of Paper-Book] claiming that the transaction of sale took place on 26.03.2013 and the sale-deed was also executed on 26.03.2013, falling within previous year 2012-13 relevant to AY 2013-14 but the registered sale-deed was released by office of sub-registrar on 15.04.2013 falling within previous year 2013-14 relevant to AY 2014-15 under consideration. Therefore, the transaction was taxable in AY 2013-14 and there cannot be any proceeding of re-assessment for AY 2014-15. However, the AO rejected assessee's reply vide order

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dated 29.07.2022 [Page 73-76 of Paper-Book] and in para 8 of order, the AO concluded that the assessee's case was fit for issuance of notice u/s 148. Accordingly and simultaneously, the AO issued a fresh notice dated 29.07.2022 u/s 148. In response, the assessee re-filed return on 17.08.2022 repeating the original income of Rs. 4,31,880/-. Thereafter, the AO also issued notices u/s 143(2)/142(1) raising queries *qua* the impugned transaction of sale of property. In reply, the assessee repeated the very same explanation which was made in earlier reply dated 04.06.2022 in response to notice u/s 148A(b). As noted earlier, the assessee claimed that the transaction of sale took place on 26.03.2013 and the sale-deed was also executed on 26.03.2013, falling within previous year 2012-13 relevant to AY 2013-14 but the registered sale-deed was released by office of sub-registrar on 15.04.2013 falling within previous year 2013-14 relevant to AY 2014-15 under consideration. In nutshell, the claim of assessee before AO was that the impugned transaction of sale of property picked by AO did not relate to AY 2014-15 and hence the action taken for re-opening of assessee's case for AY 2014-15 is bad. However, the AO again rejected assessee's submission and ultimately made an addition of Rs. 2,07,60,000/- being 50% share of assessee in the stamps valuation of sold property. Further, the AO also noticed from 26AS statement that the assessee was in receipt of Rs. 5,50,000/- u/s 194C which was not disclosed in original return of income filed by assessee.

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Therefore, the AO made another addition of Rs. 5,50,000/- on account of undisclosed revenue from sale of services. This way, the AO passed assessment-order dated 30.05.2023 after making twin additions of Rs. 2,07,60,000/- and Rs. 5,50,000/- and determining total income of assessee at Rs. 2,17,41,880/-.

- (iii) Aggrieved, the assessee carried matter in first-appeal and raised several grounds challenging the legality of re-assessment proceedings as also the merits of additions made by AO. One of the grounds raised by assessee was such that the new notice dated 29.07.2022 issued by AO u/s 148 was also barred by time-limitation and hence invalid. After considering assessee's submission, the CIT(A) allowed the issue of limitation and declared re-opening of assessment as invalid. However, the CIT(A) did not adjudicate other grounds [Paras 5.4, 5.5 & 6 of impugned order passed by CIT(A)].
- (iv) Now, the revenue being aggrieved by CIT(A)'s order has come in captioned Appeal. The assessee has also filed captioned Cross-Objection.

Assessee's Cross-Objection:

3. The assessee has raised following grounds:

Original grounds in Form No. 36A:

"Ground No. 1- On the facts and in the circumstances of the case, and, in law, the order passed u/s 147 r.w.s. 144B of the Income Tax Act 1961, in

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pursuance to Notice u/s 148 issued by JAO is void, illegal, unlawful, time barred and bad-in-law since the issuance the captioned reassessment Notice by the Jurisdictional Assessing Officer is in contrast to the Faceless Assessment scheme.

Ground No. 2- Without prejudice to the Appellate Order passed in favor of the assessee on the Ground of Limitation, on the facts and in the circumstances of the case, and, in law, the Ld. CIT (Appeals) NFAC erred in not adjudicating the Ground Nos. 3 to 6 Grounds of Appeal raised in 1st Appeal by the appellant on merits of the case.

Ground No. 3- Without prejudice to the appellate Order passed in favor of the appellant on the Ground of Limitation, on the facts and in the circumstances of the case, and, in law, the Ld. CIT (Appeals) NFAC erred in not adjudicating the issue of making an addition of Rs. 2,07,60,000/- for AY 2014-15 on account of alleged sale of property in this relevant assessment year, instead of AY 2013-14.

Ground No. 4- Without prejudice to the appellate Order passed in favor of the appellant on the Ground of Limitation, on the facts and in the circumstances of the case, and, in law, the Ld. CIT (Appeals) NFAC erred in not adjudicating the issue of holding share of the assessee in the property at 50 percent instead of 30 percent and considering guideline value as consideration instead of sale proceeds.

Ground No. 5- Without prejudice to the appellate Order passed in favor of the appellant on the Ground of Limitation, on the facts and in the circumstances of the case, and, in law, the Ld. CIT (Appeals) NFAC erred in not adjudicating the issue of computing the capital gain by the AO by not allowing the deduction of purchase cost.

Ground No. 6- Without prejudice to the appellate Order passed in favor of the appellant on the Ground of Limitation, on the facts and in the circumstances of the case, and, in law, the Ld. CIT (Appeals) NFAC erred in not adjudicating the issue of making an addition of Rs. 5,50,000/- by the AO by alleging contractual receipts appearing in Form No. 26AS as undisclosed income of the assessee."

Additional grounds in a separate application under Rule 11 of ITAT Rules, 1963:

"Ground No. 7- On the facts and in the circumstances of the case, and, in law, the Ld. AO erred in issuing notice for AY 14-15 u/s 148 of the Income Tax Act 1961.

Ground No.8- On the facts and in the circumstances of the case, and in law, the Notices issued u/s 148 of the Income Tax Act 1961 for AY 14-15 are void-ab-initio and thus the subsequent proceedings thereon are illegal, void, unlawful and bad-in-law.

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Ground No.9- On the facts and in the circumstances of the case, and in law, the order dated 30/05/23 passed u/s 147 r.w.s 144B of the Income Tax Act 1961 in consequence to void notices is also void, illegal, unlawful and bad-in-law."

4. Ld. AR for assessee requested that the additional Ground Nos. 7 to 9 raised by him, as noted above, may be decided first and if the assessee succeeds on those grounds, the bench may not adjudicate original Ground No. 1 to 6 raised by assessee.

5. In so far as admissibility of the additional grounds is concerned, Ld. AR submitted that the grievance raised in these grounds was very much before CIT(A) also and therefore the grounds arise from impugned order. Without prejudice, he submitted that the grounds are purely legal in nature; go to the root of the matter; do not call for any new evidence; and can be decided on the basis of material already held on record. Therefore, in view of various judicial precedents, the additional grounds deserve to be admitted and taken for adjudication. Ld. AR relied upon following decisions:

- (i) In **National Thermal Power Co. Ltd. Vs. CIT (1998) 229 ITR**, the Hon'ble Supreme Court has upheld the right of raising legal ground at any stage of proceeding provided the relevant facts are on record. In present case, the assessee's claim of jurisdictional deficit is a legal claim and the relevant facts are already on record. Therefore, the twin conditions set up by Hon'ble Supreme Court are satisfied.
- (ii) In **K. Lubna vs. & ors. vs. Beevi & ors., Civil Appeal No. 2442-2443 of 2011**, the Hon'ble Supreme Court has held:

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"9. On the legal principle, it is trite to say that a pure question of law can be examined at any stage, including before this Court. If the factual foundation for a case has been laid and the legal consequences of the same have not been examined, the examination of such legal consequences would be a pure question of law.

11. We may also usefully refer to what has been observed by Lord Watson in *Connecticut Fire Insurance Co. v. Kavanagh* in the following words:

".... When a question of law is raised for the first time in a court of last resort upon the construction of a document or upon facts either admitted or proved beyond controversy, it is not only competent but expedient in the interests of justice to entertain the plea. The expediency of adopting that course may be doubted when the plea cannot be disposed of without deciding nice questions of fact in considering which the court of ultimate review is placed in a much less advantageous position than the courts below."

(iii) In **Assistant Commissioner of Income-tax Vs. ADR Home Décor (P)**

Ltd. (2015) 61 taxmann.com 243 (Delhi – Trib.), the Delhi ITAT has

held as under:

"13. As regards the learned Departmental representative's objection that the assessee could not have taken up the additional ground since it does not arise out of the order of the Commissioner of Income-tax (Appeals) and has not been adjudicated upon by the Commissioner of Income-tax (Appeals), we are unable to see legally sustainable merits in the same. The law is fairly well-settled in this regard. As long as it is a legal issue, and particularly when it does not require any further investigation of facts, it can be taken up even at the stage of the Tribunal for the first time. The authority for this proposition is contained in the hon'ble Supreme Court decision in **National Thermal Power Co. Ltd. v. CIT [1998] 229 ITR 383 (SC)**. The rights of the appellant and the cross-objector are essentially similar and what can be raised in the appeal for the first time before the Tribunal can also be taken up for the first time in the cross-objection as well."

(iv) In **The Income Tax Officer Vs. M/s Vishu Impex Pvt. Ltd., ITA No.**

2765/Del/2011 & 3703/Del/2011, the ITAT Delhi held as under:

"7. We have heard the arguments of both the sides on the admission of additional ground sought to be raised by the assessee in both the cross objections and also perused the relevant material on record. The Id. AR submitted that the ground in the cross objection is that the impugned orders passed u/s 271D & 271E of the Act are barred by limitation and since this issue is taken up for the first time before the ITAT in the nature of additional

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ground, therefore, the same may kindly be admitted for adjudication. The Id. AR placed reliance on the proposition laid down by the Hon'ble Supreme Court in the case of National Thermal Power Company Ltd reported in 229 ITR 383 [Hon'ble Supreme Court] submitting that the issue which is purely legal and which goes to the root of the matter and no new facts are required to be invoked, then the same should be admitted for adjudication being legal objection of the assessee. The Id. AR also placed reliance on the decision of the ITAT Delhi Bench vide order dated 26.9.2014 in the case of DCIT Vs. Silver Line passed in cross objection Nos. 122, 109, 107 & 108/Del/2012.

8. The Id. DR vehemently contended that when the ground was not raised before the Id. CIT(A), then the same cannot be raised before the Tribunal by way of additional ground.

9. On careful consideration of the above submissions, at the very outset, we note that the ITAT 'G' Bench Delhi in the case of DCIT Vs. Silver Line [supra] has elaborately considered the submissions of the assessee as well as of the Revenue on admission of additional ground raised by the assessee which was not raised before the first appellate authority and referring and following the dicta laid down by the Hon'ble Apex Court, in the case of NTPC [supra] wherein it has been held as under:

XXX

10. In view of the above, respectfully following the proposition, we hold that since the additional ground sought to be raised is legal in nature and goes to the root of the matter, therefore, the same is admitted for adjudication in both the cross objections. Finally, the applications of the assessee for admission of additional ground are allowed."

- (v) In **Peter Vaz 128 taxmann.com 180 (Bom) and DCIT Vs. Turquoise Investments & Finance Ltd. 299 ITR 143 (MP)**, the Hon'ble Bombay High and Hon'ble MP High Court have vehemently approved the right of raising legal objections at any stage of proceeding.

6. Ld. DR for revenue, being very much knowledgeable of judicial view in this regard, was fair enough in not raising any objection against admissibility of additional grounds raised by assessee.

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7. Therefore, in view of judicial precedents cited above, the additional grounds raised by assessee are admitted and we proceed to adjudicate the same.

8. Ld. AR next submitted that the AO issued preliminary notice u/s 148A(b) dated 21.05.2022 show-causing assessee to explain the transaction of sale of property [the notice issued by AO is re-produced in earlier para]. The assessee submitted reply dated 04.06.2022 with documentary evidence in the shape of registered sale-deed informing clearly the details of sale transaction and demonstrating to AO that the transaction was related to AY 2013-14 and not to AY 2014-15. In the reply so submitted, the assessee also made a categorical request to AO to drop proceedings of AY 2014-15. The assessee's reply is acknowledged as well as re-produced by AO in his order dated 29.07.2022 passed u/s 148A(b) [Pages 74 of Paper-Book]. However, the AO made a wrong observation/conclusion in Para 7.2 of order u/s 148A(b) and wrongly rejected assessee's reply and proceeded to issue notice dated 29.07.2022 u/s 148 to re-open assessee's case u/s 147. The very same observation/conclusion is again made by AO in Para 4.3 of assessment-order reading as under:

"4.3 But nowhere in the sale-deed, it is mentioned that the date of release of document is 15/04/2013. On examination of sale-deed, the date mentioned on sale-deed is 15/04/2013, which establishes that the sale and registration has taken place during the financial year 2013-14 relevant to assessment year 2014-15. The relevant pages of the registered sale deed were the assessee highlighted as the date of registration is regarding the signature of witnesses. It is noticed in the copy of the registered deed that the Signature of the Sub-Registrar, Subdistrict, Indore-2 alongwith office seal is dated with

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15/04/2013. Therefore, the contention of the assessee that the sale of the property belongs to financial year 2012-13 is not acceptable."

9. To show as to how the above observation/conclusion made by AO is wrong, Ld. AR carried us to the copy of registered sale-deed, the same is scanned and re-produced below for an immediate reference:

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AI/GI(15/4/13) (33)

भारतीय गैर न्यायिक INDIA NON JUDICIAL

रु. 25000
 पच्चीस हजार रुपये

Rs. 25000
 TWENTY-FIVE THOUSAND RUPEES

INDIA

मध्य प्रदेश MADHYA PRADESH

2868

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विक्रय-लेख

स्टाम्प ड्यूटी रुपये - 1125000-00	विक्रय मूल्य रुपये :- 2,25,00,000/-
पंचायत ड्यूटी रुपये - 225000-00	(अक्षरी रुपये दो करोड़ पच्चीस लाख मात्र)
कारपो. ड्यूटी रुपये - 225000-00	पटवारी हल्का नंबर - 14 (37)
उपकर ड्यूटी रुपये - 56250-00	
अति. ड्यूटी रुपये - 00-00	
कुल स्टाम्प रुपये - 1631250-00	

(1) श्री रणवीरसिंह पिता श्री इन्दरसिंह छाबड़ा,
 (2) श्री गुरदीपसिंह पिता श्री इन्दरसिंह छाबड़ा,
 दोनो निवासी - 10, आदर्श नगर, इन्दौर (म.प्र.)

--- विक्रेतापक्ष

मेसर्स लक्ष्मी डेव्हलपर्स तर्फे पार्टनर,
 श्री दिलीपसिंह सलुजा पिता श्री इन्दरसिंह सलुजा,
 पता - 7233 इन्द्रपुरी कालोनी, इन्दौर (म.प्र.)

--- क्रेतापक्ष

(उपरोक्त विक्रेतापक्ष के सम्बोधन में उनके वैध वारिस उत्तराधिकारी, वैध असायनीज, मुख्तियार एवं समस्त हितबन्ध व्यक्ति भी सम्मिलित हैं) विक्रेतापक्ष, क्रेतापक्ष के हित में यह विक्रयलेख निम्नानुसार लिख देते हैं कि :-

अविरत ----- 2.

For Laxmi Developers
 Partner

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पच्चीस

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THOUSAND RUPEES

मध्य प्रदेश MADHYA

(2))

(1) यह कि, विक्रेतापक्ष के संयुक्त हक्क, मालकी, स्वत्व की कृषि भूमि ग्राम पिपल्याराव तहसील व जिला इन्दौर (म.प्र.) के पटवारी हल्का नंबर 14 (37) स्थित सर्वे नंबर 290/1 पैकी रकबा 0.528 हैक्टेयर लगान 1.39 पैसे की कृषि भूमि यहाँ पर स्थित है। यह कृषि भूमि विक्रेतापक्ष ने जरिये एक पंजीकृत विक्रयलेख क्रमांक 1अ/4249 (ग) दिनांक 10/01/2006 के द्वारा सर्वानन्द नगर गृह निर्माण सहकारी संस्था मर्यादित इन्दौर (पंजीयन क्रमांक डीआर/आयडीआर/234 दिनांक 21.06.1979) तर्फ अध्यक्ष गुरनामसिंह पिता श्री हरभजनसिंह धालिवाल, पता - भोलाराम उस्ताद मार्ग, ए.बी. रोड, इन्दौर (म.प्र.) से क्रय की होकर समस्त भू-राजस्व अभिलेखों में विक्रेतापक्ष के नाम पर दर्ज है। जिसका भू-अधिकार एवं ऋण पुस्तिका क्रमांक N-115777 है।

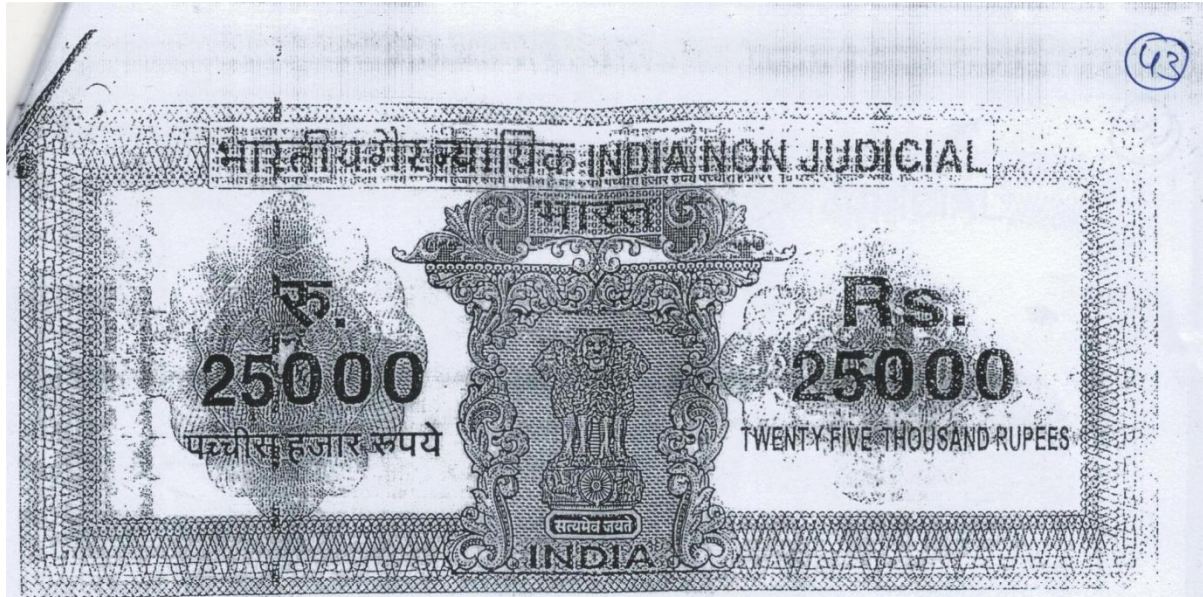
इसी प्रकार विक्रेतापक्ष क्रमांक 1 श्री रणवीरसिंह पिता श्री इन्दरसिंह छाबडा के एकमात्र हक्क, मालकी, स्वत्व की कृषि भूमि ग्राम पिपल्याराव तहसील व जिला इन्दौर (म.प्र.) के पटवारी हल्का नंबर 14 (37) स्थित सर्वे नंबर 290/1 पैकी रकबा 0.350 हैक्टेयर लगान राजस्व रेकार्ड अनुसार की कृषि भूमि यहाँ पर स्थित है। यह कृषि भूमि विक्रेतापक्ष ने जरिये एक पंजीकृत विक्रयलेख क्रमांक 1अ/2850 (क) दिनांक 13/01/2006 के द्वारा सर्वानन्द नगर गृह निर्माण सहकारी समिति (यश नगर) इन्दौर तर्फ अध्यक्ष गुरनामसिंह पिता श्री हरभजनसिंह निवासी - 43, सिख मोहल्ला, इन्दौर (म.प्र.) से क्रय की होकर समस्त भू-राजस्व अभिलेखों में विक्रेतापक्ष के नाम पर दर्ज है। जिसका भू-अधिकार एवं ऋण पुस्तिका क्रमांक N-115780 है।

अविरत 3.

For Laxmi Developers

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मध्य प्रदेश MADHYA PRADESH

A 03801

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विक्रयाधीन कृषि भूमि का वर्णन

(2) यह कि, ग्राम "पिपल्याराव" तहसील व जिला इन्दौर (म.प्र.) के पटवारी हल्का नंबर 14 (37) स्थित सर्वे नंबर 290/1 पैकी रकबा 0.350 हैक्टेयर एवं सर्वे क्रमांक 290/1 पैकी रकबा 0.528 हैक्टेयर इस प्रकार कुल रकबा 0.878 हैक्टेयर कृषि भूमि का विक्रय विक्रेतापक्ष ने क्रेतापक्ष को किया है। यह कृषि भूमि ग्राम पिपल्याराव रिंगरोड से दक्षिण पूर्व की ओर स्थित होकर यह कृषि भूमि मुख्य मार्ग, से अंदर की ओर स्थित होकर किसी भी राष्ट्रीय/राज्य मार्ग, जिला मार्ग पर स्थित नहीं है। इस कृषि भूमि पर किसी भी प्रकार का कोई निर्माण कार्य किया हुआ नहीं है। जिसकी चतुःसीमा निम्नानुसार है :-

पूर्व में	☞ अन्य की भूमि
पश्चिम में	☞ कच्चा रास्ता
उत्तर में	☞ इन्दौर विकास प्राधिकरण की भूमि
दक्षिण में	☞ अन्य की भूमि

(3) यह कि, उपरोक्त वर्णन एवं चतुःसीमा के मध्य स्थित विक्रीत कृषि भूमि को आगे सुविधा एवं अक्षिप्तता की दृष्टि से "सदर सम्पत्ति" शब्द से संबोधित किया गया है।

अविरत ----- 4.

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For Laxmi Industries
[Handwritten signature]
Partner

Gurdeep Singh Chhabra
ITA No.726/Ind/2024 & CO No.14/Ind/2025 - A.Y.2014-15

25 MAR 2013

निष्पादक / पालक / अभिकर्ता
.....के अंगुठे
का मिलान मेरे सम्मुख ता 26/3/13
को किया गया।

उप पंजीयक
उप-जिला, इन्दौर - 8

वचन
17. मेरे पत्नी, का
पंजीयन नं. 10. 3326-1-7-1113.

निष्पादक / पालक / अभिकर्ता
.....के अंगुठे
का मिलान मेरे सम्मुख ता 26/3/13
को किया गया।

उप पंजीयक
उप-जिला, इन्दौर - 8

For Laxmi Developers
Rajesh Kumar
Partner

निष्पादक / पालक / अभिकर्ता
.....के अंगुठे
का मिलान मेरे सम्मुख ता 26/3/13
को किया गया।

उप पंजीयक
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मध्य प्रदेश MADHYA PRADESH

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(4) उपरोक्त वर्णन एवं चतुःसीमा के मध्य स्थित बिक्रीत कृषि भूमि को विक्रेतापक्ष ने क्रेतापक्ष को कुल रुपये 2,25,00,000/- (अक्षरी रुपये दो करोड़ पच्चीस लाख मात्र) में विक्रय कर दी होकर विक्रय प्रतिफल की सम्पूर्ण राशि विक्रेतापक्ष ने क्रेतापक्ष से निम्नानुसार प्राप्त कर ली है :-

रुपये	विवरण
25,00,000/-	चेक क्रमांक 400854 दिनांक 30/03/2013 यूको बैंक शाखा संयोगितागंज, इन्दौर के द्वारा क्रेतापक्ष ने विक्रेतापक्ष श्री रणवीरसिंह को भुगतान पेटे अदा किया।
1,32,65,000/-	चेक क्रमांक 400853 दिनांक 30/08/2013 यूको बैंक शाखा संयोगितागंज, इन्दौर के द्वारा क्रेतापक्ष ने विक्रेतापक्ष श्री रणवीरसिंह को भुगतान पेटे अदा किया।
67,35,000/-	चेक क्रमांक 400852 दिनांक 30/08/2013 यूको बैंक शाखा संयोगितागंज, इन्दौर के द्वारा क्रेतापक्ष ने विक्रेतापक्ष श्री गुरदीपसिंह को भुगतान पेटे अदा किया।
2,25,00,000/-	अक्षरी रुपये दो करोड़ पच्चीस लाख मात्र।

(5) यह कि, उपरोक्तानुसार विक्रेतापक्ष ने क्रेतापक्ष से विक्रय प्रतिफल की राशि प्राप्त कर सदर सम्पत्ति का रिक्त भौतिक व मूर्तिमन्त आधिपत्य विक्रेतापक्ष ने क्रेतापक्ष को सौंप दिया है।

(6) यह कि, सदर सम्पत्ति के संबंध में विक्रेतापक्ष ने कोई आम मुखत्यार नामा आम या खास किसी व्यक्ति या संस्था के हित में किया हुआ नहीं है। और इस प्रकार का कोई आम मुखत्यार नामा वर्तमान में प्रभावशील भी नहीं है।

अविरत 5.

For Laxmi Developers
 Partner

Gurdeep Singh Chhabra
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25 MAR 2013

26/3/13

उप पंजीयक
उप-जिला, इन्दौर - 2

वचन नागर
17, गणेश, खण्डवा रोड
फ़ोन नं. 08268-77007

26/3/13

उप पंजीयक
उप-जिला, इन्दौर - 2

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मध्य प्रदेश MADHYA PRADESH

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(7) यह कि, सदर सम्पत्ति के संबंध में विक्रेतापक्ष को आज दिनांक तक जो भी मालकी हक्क, स्वत्व, अधिकार सुखाधिकार आदि प्राप्त थे वे समस्त मालकी हक्क, स्वत्व, अधिकार सुखाधिकार आदि इस लेख के जरिये क्रेतापक्ष में वैधित हो गये हैं। अब क्रेतापक्ष सदर सम्पत्ति का उपयोग व उपभोग अपनी इच्छानुसार लेते जावेंगे। इसमें अन्य किसी को आपत्ति करने का अधिकार नहीं रहेगा।

(8) यह कि, पूर्व विक्रेतापक्ष द्वारा उप-पंजीयक सहकारी संस्थाएं जिला इन्दौर के द्वारा दी गई अनुमति क्रमांक/गृह/03/4761 दिनांक 17/09/2003 के नियमों का पालन करते हुवे पूर्व विक्रेतापक्ष ने उक्त भूमि विक्रय की थी।

(9) यह कि, सदर सम्पत्ति विक्रेता ने क्रेता के सिवाय दीगर जगह गिरवी या बिक्री की हुई नहीं है और ना कोई को दान या बक्षिस में दी है। सदर सम्पत्ति पर किसी का डिक्री चार्ज, मेन्टेनेंस, लगान, कर्ज का या जमानत का तथा अन्य किसी भी प्रकार का हक्क, संबंध, या बोझा नहीं है। सदर सम्पत्ति हर प्रकार के भार व बोझ से मुक्त है। सदर सम्पत्ति विक्रेता के मालकी की होकर सदर सम्पत्ति बिक्री करने का विक्रेता को पूर्ण अधिकार है।

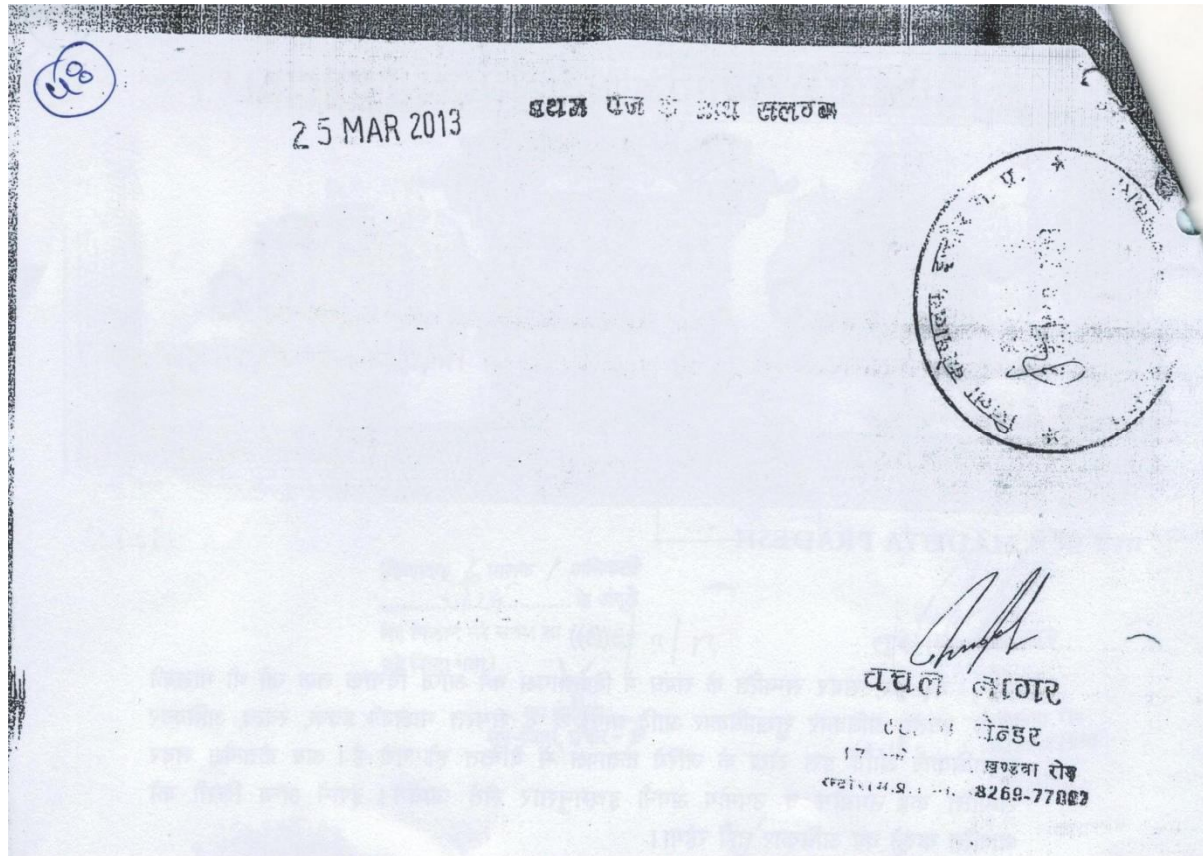
(10) यह कि, विक्रेता एतद् द्वारा घोषित एवं निश्चित करते हैं कि उक्त सम्पत्ति उनके द्वारा इस बिक्रय से पूर्व तथा आप क्रेता के अतिरिक्त किसी अन्य व्यक्ति या संस्था को दान, गिरवी, बिक्री, रहन, जमानत आदि रीति से या अन्य किसी भी रीति से अंतरित या हस्तांतरित नहीं हुई है और न ही विक्रेता द्वारा ऐसे किसी लिखतम या मौखिक वचन या पारिवारिक व्यवस्था पत्र आदि का निष्पादन किया है।

अविरत ————— 6.

For Laxmi Developers

Partner

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(49)



भारतीय गैर न्यायिक INDIA NON JUDICIAL

रु. 25000 पच्चीस हजार रुपये

Rs. 25000 TWENTY FIVE THOUSAND RUPEES

INDIA

मध्य प्रदेश MADHYA PRADESH A 036024

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(11) यह कि, उक्त सम्पत्ति के लिये वर्तमान में किसी भी प्रकार का पारिवारिक या न्यायिक वाद, विवाद आदि लंबित नहीं है और नही उक्त सम्पत्ति पर किसी अन्य व्यक्ति या संस्था का अधिकार, हक्क, स्वत्व आदि है। उक्त सम्पत्ति समस्त प्रकार के भार, बोझ व अंतरण आदि से मुक्त है। सदर सम्पत्ति विक्रेता ने अपने परिवार तथा वारिसगणों की सहमति से बिक्री की होकर उनकी सहमति इस बिक्री में है।

(12) यह कि, सदर सम्पत्ति के मालकी बाबद भविष्य में कोई भी वारिस या हक्कदार खड़ा होकर, क्रेता से किसी प्रकार का दावा अगड़ा करेगा या क्रेता के कब्जे में किसी प्रकार की आपत्ति आवेगा तो उसका निराकरण विक्रेता अपने स्वयं के खर्चे से करेंगे। क्रेता को किसी भी प्रकार का खर्चा या नुकसानी लगने देंगे नहीं।

(13) यह कि, सदर सम्पत्ति के संबंध में आज दिनांक तक के लगने वाले समस्त ड्यूज टेक्सेस लगान व अन्य व्यय आदि विक्रेतापक्ष वहन करेंगे तथा आज दिनांक के पश्चात से सदर सम्पत्ति के संबंध में लगने वाले समस्त टेक्सेस लगान अन्य व्यय व रख रखाव खर्च आदि क्रेतापक्ष वहन करते जावेंगे।

(14) यह कि, क्रेतापक्ष इस लेख के जरिये सदर सम्पत्ति पर अपना नामांतरण सार्वजनिक शासकीय, अर्द्धशासकीय व स्थानीय विभागों में अपने स्वयं के आर्थिक व्यय से करवा लेवेंगे। इस कार्यवाही में विक्रेतापक्ष, क्रेतापक्ष को हस्ताक्षर का पूर्ण सहयोग प्रदान करेंगे।

अविरत ----- 7.

For Laxmi Developers
 Partner



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मध्य प्रदेश MADHYA PRADESH

A 0380

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(15) यह कि, इस विक्रय-पत्र में प्रयुक्त किसी भी शब्द-वाक्य या प्रतिश्रव को भविष्य में और अधिक प्रभावशाली बनाने के लिये, अधिक विस्तार या व्याख्या अथवा स्पष्टीकरण की आवश्यकता पड़ने पर विक्रेता, क्रेता के लिये निवेदन एवं व्यय पर अन्य आवश्यक दस्तावेज जैसे संशोधन-पत्र, सहमति-पत्र, एडमिशन डीड, शपथ-पत्र, प्रार्थना पत्र, उत्तर आदि के निष्पादन एवं आवश्यकता पड़ने पर उसको पंजीकृत करवाने के लिये सदैव तत्पर रहेंगे।

(16) यह कि, इस विक्रयपत्र में लगने वाला व्यय जैसे स्टाम्प शुल्क, पंजीयन शुल्क आदि क्रेतापक्ष ने वहन किया है।

(17) यह कि, हाथ से काटे गये, जोड़े गये अंश क्रमांक एक से तक को हम हस्ताक्षरकर्ता प्रमाणित करते हैं।

अतः यह विक्रय विलेख आज दिनांक को विक्रेतापक्ष ने क्रेतापक्ष के हित में स्वस्थ शारीरिक एवं मानसिक अवस्था में सोच-समझकर, पढ़कर, सुनकर एवं विक्रय मूल्य की पूर्ण राशि प्राप्ति की स्वीकृति के साथ इस विलेख को अपने हस्ताक्षर से निष्पादित कर दिया। सो प्रमाण रहे।

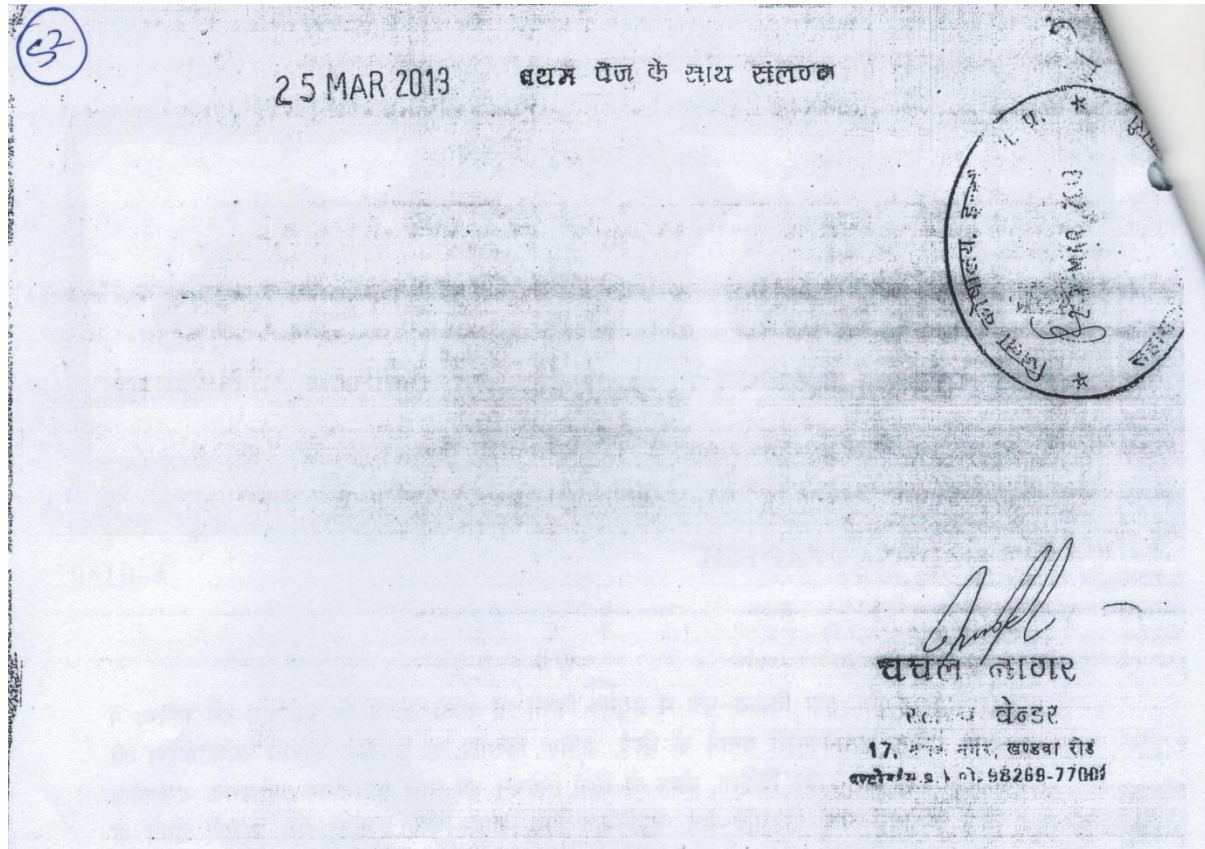
इति, इन्दौर,

अविस्त ——— 8.

For Laxmi Developers

Partner

Gurdeep Singh Chhabra
ITA No.726/Ind/2024 & CO No.14/Ind/2025 - A.Y.2014-15



Gurdeep Singh Chhabra
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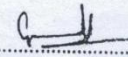
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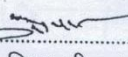
भारतीय न्यायिक INDIA NON JUDICIAL
 रु. 25000 पच्चीस हजार रुपये
 Rs. 25000 TWENTY FIVE THOUSAND RUPEES
 INDIA

मध्य प्रदेश MADHYA PRADESH

दिनांक :- 26/03/2013 ((8))

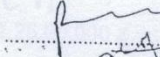
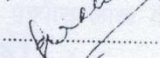
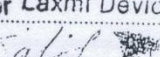
साक्षीगण :-

1. हस्ताक्षर 
 नाम श्री. 26 पिता श्री श्री. 26
 पता खा. 26, 26, 26, 26, 26

2. हस्ताक्षर 
 नाम श्री. 26 पिता श्री श्री. 26
 पता खा. 26, 26, 26, 26, 26

उभयपक्षों द्वारा प्रदत्त जानकारी एवं उपलब्ध करवाये गये दस्तावेज की फोटोप्रति अनुसार यह विक्रय विलेख मेरे द्वारा प्रारूपित किया गया है, पक्षकारों व गवाहों की पहचान व सम्पत्ति से मेरा कोई सम्बन्ध नहीं है।

यशवन्त नाथर (एडवोकेट)
Mobile no. 99269-77002

हस्ताक्षर - विक्रेतापक्ष
 (1) 
 (2) 
 हस्ताक्षर - क्रेतापक्ष
 For Laxmi Developers

 Partner

Gurdeep Singh Chhabra
ITA No.726/Ind/2024 & CO No.14/Ind/2025 - A.Y.2014-15

25 MAR 2013

बयान पत्र के साथ संलग्न

(5)

15/04/13

30/04/2013

15 APR 2013

आज ता. मास सन् 20....

को पुरस्तक क्र.

164 ग्रन्थ के 8 पृष्ठ

..... 98/105 पर क्रमांक 61

देकर पंजीबद्ध किया गया।

उप-पंजीयक
उप-जिला, इन्दौर-2

15 APR 2013

30/02/2013

भुक्तिक शुल्क 337305-

पंजीयन शुल्क 25-

धुर्व्यापन शुल्क 337305-

योग 337305-

उप-पंजीयक
उप-जिला, इन्दौर-2

10. Referring to various pages of above sale-deed, Ld. AR pointed out as under:

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- (i) The date of execution of deed and presentation of same to the office of sub-registrar is '26.03.2013' as has been clearly recorded by sub-registrar office in their official seals at many places in deed.
- (ii) Page 41 of deed clearly mentions two dates, namely the first date is '26.03.2013' which was the date of presentation of deed to the office of sub-registrar and the second date is '15.04.2013' which was the date of release of registered-deed by sub-registrar after payment of proper stamp duty as assessed.
- (iii) Page 53 of deed clearly shows the date of '26.03.3013' just before the signature of sellers (assessee and joint owner), purchaser and witnesses.
- (iv) On Page 54 of deed, the sub-registrar office has clearly mentioned '15.04.2013' as the date of registration, which is the date of release of registered-deed.
- (v) On Page 45 of deed, the Clause No. (4) clearly shows the receipt of consideration through various cheques/post-dates cheques having been acknowledged by assessee from purchaser and the Clause No. (5) clearly shows the possession of property having been given by assessee to purchaser. These events took place on '26.03.2013'.

11. Thus, the Ld. AR successfully demonstrated that the transaction of sale of property got completed on '26.03.2013' and that the sale-deed was

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also executed and presented by parties (i.e. the assessee and purchaser) to the office of sub-registrar on '26.03.2013' itself. However, the sub-registrar office released sale-deed on 15.04.2013 after payment of proper duty as assessed and after registration.

12. Ld. AR also referred following decisions:

(i) Hon'ble Supreme Court – Kanwar Raj Singh (D) TH. LRS Vs. GEJO (D) TH. LRS & Ors. – Civil Appeal No. 9098 of 2013:

"4. We have perused the judgments of the Trial Court, District Court and the impugned judgment of the High Court. The first Appellate Court recorded that it is the case of the defendants that before registration of the sale deed, the first defendant incorporated a change in the sale deed stating that it was in respect of 1/3rd share in the area of 71 kanals and 8 marlas. The first Appellate Court noted that the original first defendant's evidence was that the correction was made by him with his own pen in the sale deed before its registration. The appellants are the legal representatives of the first defendant. In this case, it is an admitted position that while executing the sale deed, the area of the land sold was shown as 71 kanals and 8 marlas and subsequently, the area was altered to 1/3rd of the said area by the first defendant before the sale deed was registered.

5. The High Court, in the impugned judgment, has relied upon Section 47 of The Registration Act, 1908 (the Registration Act), which reads thus:

"47. Time from which registered document operates - *A registered document shall operate from the time which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration."*

6. On plain reading of Section 47, it provides that a registered document shall operate from the time from which it would have commenced to operate if no registration thereof was required. Thus, when a compulsorily registerable document is registered according to the Registration Act, it can operate from a date before the date of its registration. The date of the operation will depend on the nature of the transaction. If, in a given case, a sale deed is executed and the entire agreed consideration is paid on or before execution of the sale deed, after it is registered, it will operate from the date of its execution. The reason is that if its registration was not required, it would have operated from the date of its execution.

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7. Now, we come to the decision of the Constitution Bench in the case of **Ram Saran Lall (Supra)**. In paragraph 8 of the judgment, the Constitution Bench held thus:

*“8. We do not think that the learned Attorney- General's contention is well founded. We will assume that the learned Attorney-General's construction of the instrument of sale that the property was intended to pass under it on the date of the instrument is correct. Section 47 of the Registration Act does not, however, say when a sale would be deemed to be complete. It only permits a document when registered, to operate from a certain date which may be earlier than the date when it was registered. The object of this section is to decide which of two or more registered instruments in respect of the same property is to have effect. The section applies to a document only after it has been registered. It has nothing to do with the completion of the registration and therefore nothing to do with the completion of a sale when the instrument is one of sale. A sale which is admittedly not completed until the registration of the instrument of sale is completed, cannot be said to have been completed earlier because by virtue of Section 47 the instrument by which it is effected, after it has been registered, commences to operate from an earlier date. Therefore we do not think that the sale in this case can be said, in view of Section 47, to have been completed on January 31, 1946. The view that we have taken of Section 47 of the Registration Act seems to have been taken in *Tilakdhari Singh v. Gour Narain* [AIR (1921) Pat 150] . We believe that the same view was expressed in *Nareshchandra Datta v. Gireeshchandra Das* [(1935) ILR 62 Cal 979] and *Gobardhan Bar v. Guna Dhar Bar* [ILR (1940) II Cal 270].” (underline supplied).*

8. The Constitution Bench held that Section 47 of the Registration Act does not deal with the issue when the sale is complete. The Constitution Bench held that Section 47 applies to a document only after it has been registered, and it has nothing to do with the completion of the sale when the instrument is one of sale. It was also held that once a document is registered, it will operate from an earlier date, as provided in Section 47 of the Registration Act.

9. Section 54 of the Transfer of Property Act, 1984 (the Transfer of Property Act) reads thus:

“54. “Sale” defined.—“Sale” is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.

Sale how made.—Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument. In the case of tangible immoveable property of a value less than one hundred rupees, such

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transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immoveable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.—A contract for the sale of immoveable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property.”

10. Every sale deed in respect of property worth more than Rs. 100/- is compulsorily registerable under Section 54 of the Transfer of Property Act. Thus, a sale deed executed by the vendor becomes an instrument of sale only after it is registered. The decision of the Constitution Bench only deals with the question of when the sale is complete; it does not deal with the issue of the date from which the sale deed would operate. Section 47 of the Registration Act does not deal with the completion of the sale; it only lays down the time from which a registered document would operate.

11. Now, coming to the facts of this case, the consideration was entirely paid on the date of the execution of the sale deed. The sale deed was registered with the interpolation made about the description/area of the property sold. The first defendant admittedly made the said interpolation after it was executed but before it was registered. In terms of Section 47 of the Registration Act, a registered sale deed where entire consideration is paid would operate from the date of its execution. Thus, the sale deed as originally executed will operate. The corrections unilaterally made by the first defendant after the execution of the sale deed without the knowledge and consent of the purchaser will have to be ignored. Only if such changes would have been made with the consent of the original plaintiff, the same could relate back to the date of the execution. It is not even the first defendant's case that the subsequent correction or interpolation was made before its registration with the consent of the original plaintiff. Therefore, in this case, what will operate is the sale deed as it existed when it was executed.

12. Therefore, we find no error in the view taken by the High Court.”

(ii) ITAT, Indore - Shri Santosh Mandloi Vs. ITO, ITA No. 38/Ind/2023, order dated 22.08.2023:

“8. We have considered rival submissions of both sides and also perused the documents filed before us in paper book. We find that it is not a case of unregistered sale of land. In fact, the sale is done through a registered sale-deed executed between parties. But the controversy has cropped because of

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the reason that though the sale-deed was executed on 22.03.2011 and presented to the Office of Sub-Registrar also on 22.03.2011, which is an undisputed fact duly acknowledged by seal and signature of Sub-Registrar, but the registration was finally done/cleared on 19.05.2011 after payment of some duty/fee by buyer. In this situation, firstly there seems to be no fault of assessee when the assessee has done everything on 22.03.2011. The documents on record clearly establish that the consideration had been received and possession had also been given by/on 22.03.2011. Secondly, we are consciously aware of the decision of the Hon'ble Supreme Court in **Hamada Ammal Vs. Avadiappa Pathar and 3 others, Civil Appeal No. 110 of 1984 dated 07.11.1990**, wherein the Hon'ble Court, after analysing the provisions of Registration Act, was pleased to hold as under:-

“4. Section 54 of the Act defines sale as "a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised". Thus after the execution of the sale deed with consideration all the ingredients of sale are fulfilled except that in case of tangible immovable property of the value of Rs. 100 and upwards it can be made only by registered instrument. **Now, if we read Section 47 of the Registration Act, it clearly provides that a registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made and not from the time of its registration. This provision makes it clear that after the registration it will relate back to the date of execution of the sale deed.** The act of registration is to be performed by the registering authority. According to Section 23 of the Registration Act a document of the nature of sale deed shall be accepted for registration within four months from the date of its execution. Thus a statutory period of four months has been provided for presenting the sale deed for registration from the date of its execution. In case of dispute regarding the execution of the document an enquiry is permitted under Section 74(a) of the Registration Act and that may also take some time. The legislature being alive to such situations has already provided in Section 47 of the Registration Act that it shall operate from the time from which it would commence to operate if no registration thereof had been required or made and not from the time of its registration. Thus in our view the vendee gets rights which will be related back on registration from the date of the execution of the sale deed and such rights are protected under Order XXXVIII Rule 10 CPC read together with Section 47 of the Registration Act.”

9. Therefore, it can be safely concluded that the sale-deed even if finally registered on 19.05.2011 would relate back to 22.03.2011 (i.e. date of execution). Being so, we agree to the contention of Ld. AR that the sale of land had taken place on 22.03.2011 in the financial year 2010-11 and the capital gain was taxable in AY 2011-12. The necessary outcome of this is such that the AO has wrongly assessed the capital gain in AY 2012-13 under consideration. Faced with this situation, we are inclined to delete the addition made by AO in AY 2012-13. The assessee succeeds in this claim.”

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(iii) ITAT, Indore - Shri Ramesh Mangal Vs. ACIT, 3(1), Indore, ITA No. 461/Ind/2018, order dated 22.08.2023:

"14. As per section 47 of the Registration Act 1908, a registration document shall relate back to the date on which it is executed and not from the date on which it has been so registered. The relevant provision of Section 47 of the Registration Act, 1908 is reproduced below:-

"47. Time from which registered document operates - A registered document shall operate from the time which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration."

15. In the light of the above provision, we find that the alleged sale deed was executed on 31.03.2010. This fact is not disputed by both the parties. Though the document has been registered subsequently during the financial year 2010-11 but the sale deed has been signed by both the parties on 31.03.2010. In the course of hearing when the Ld. Counsel for the assessee was confronted with this aspect, he was fair enough to accept that 31.03.2010 may be taken as the date of sale of the plots of land. In these given facts and circumstances, we are of the view that the sale transaction was completed on 31.03.2010 and thus the incidence of tax falls in Assessment Year 2010-11."

13. Ld. AR submitted that in above decisions of Hon'ble Supreme Court and ITAT, Indore, it has been clearly that a registered document would relate back to and operate from the 'date of execution'. Therefore, in the light of above decisions, the transaction of sale of property done by assessee took place on '26.03.2013' falling within previous year 2012-13 relevant to AY 2013-14 and not in AY 2014-15 as concluded by Ld. AO.

14. Ld. AR also narrated one more important point which deserves a mention. He carried us to assessment-order of joint owner 'Shri Ranveer Singh Chhabra' of AY 2014-15 passed by Income-tax Department on 10.05.2023 u/s 147 r.w.s. 144B of the Act, copy at Page No. 179 to 212 of Paper-Book. Referring to Para 1 of assessment-order, he demonstrated that

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the case of joint owner was also re-opened for the very same reason of transaction of immovable property. Further referring to Para 3 / Page 34 of assessment-order, he demonstrated that the AO has ultimately accepted the taxation/assessment of impugned transaction in AY 2013-14 and the AO did not make any addition in re-opened assessment of AY 2014-15. Thus, the AO has himself accepted in joint owner's assessment that the impugned transaction was taxable in AY 2013-14 and not in AY 2014-15. When it is so, the AO is at contradiction in assessing assessee's share in the very same transaction in AY 2014-15.

15. With above submissions, Ld. AR contended that the re-opening of assessment by AO u/s 147 for AY 2014-15 is not valid and liable to be quashed. He relied upon a decision in **Ajay Cotspin Industries Vs. ITO (2025) 178 taxmann.com 64 (Gujrat)** wherein the Hon'ble Gujrat High Court has quashed assessment proceeding of AY 2018-19 for the reason that the deposit made in bank a/c of assessee (for which the case was re-opened) pertained to AY 2017-18.

16. Ld. DR for revenue relied upon the order of AO. He submitted that the AO has passed assessment-order after due consideration of facts and his order must be upheld.

17. We have considered rival submissions of both sides and carefully perused the case-record including the orders of lower-authorities and the documents filed in Paper-Book to which our attention has been drawn. We

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have already noted the vehement pleadings made by both sides in foregoing paras. In present matter, the AO has re-opened assessee's case of AY 2014-15 u/s 147 on the basis of information of sale-transaction of a property done by assessee. Before actual re-opening of case, the AO issued a preliminary show-cause notice u/s 148A(b) dated 21.05.2022 to assessee and in response the assessee submitted a copy of registered sale-deed informing to AO that the transaction of sale took place on '26.03.2013', that the sale-deed was executed on '26.03.2013' but the registered deed was released on '15.04.2013', therefore the sale-transaction was related to AY 2013-14 and not to AY 2014-15. The assessee objected against re-opening of assessment by AO. However, the AO rejected assessee's objection and issued final notice u/s 148 dated 29.07.2022. During assessment-proceeding, the assessee again filed the copy of registered sale-deed, made the same submission and raised the very same objection. Thus, the assessee made objection against re-opening of assessment on two occasions, one in response to preliminary notice u/s 148A(b) and again during assessment-proceeding. However, the AO rejected assessee's submission and continued with the proceeding of re-opening and ultimately made addition in assessee's hands in AY 2014-15. During hearing, Ld. AR has presented a detailed analysis of various pages/clauses of registered sale-deed which we have already discussed in earlier Para 10 of this order. From that analysis, which we do not wish to repeat again, we clearly find that the sale-deed was executed and presented to the office of sub-registrar on '26.03.2013'.

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Further, the assessee has also received consideration and handed over possession of property to the purchaser on '26.03.2013'. Further, the sale-deed was returned by authorities on '15.04.2013' after payment of stamp duty as assessed and registration. Therefore, in the light of provisions of section 47 of The Registration Act, 1908 as analysed in judicial decisions of Hon'ble Supreme Court and ITAT, Indore as cited earlier, we have no hesitation in concluding that the registered sale-deed would relate back to and have effect from 26.03.2013 falling with previous year 2012-13 relevant to AY 2013-14 and hence the impugned transaction of sale was taxable in AY 2013-14 and not in 2014-15. We may also add here that there were two joint owners of the sold property, viz. the assessee and assessee's brother Shri Ranveer Singh Chhabra and in assessee's brother's case, the AO has assessed the impugned transaction in AY 2013-14 and not in AY 2014-15. Therefore, the assessee is very much correct in claiming that the re-opening of assessment by AO for AY 2014-15 is illegal and unsustainable. We accept assessee's claim and quash the proceeding of re-assessment set up by AO and so also the order of re-assessment passed therein by AO. **The assessee's cross-objection is allowed.**

Revenue's Appeal:

18. Since we have quashed the order of re-assessment passed by AO, the revenue's appeal has become academic and infructuous. **In the result, the same is dismissed.**

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19. Resultantly, revenue's appeal is dismissed and assessee's cross-objection is allowed.

Order pronounced in open court on 16/10/2025
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Sd/-
(PARESH M. JOSHI)
JUDICIAL MEMBER

Sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक/ Dated : 16/10/2025

Patel/Sr. PS

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

By order
Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore