

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL  
CHANDIGARH BENCH, 'B', CHANDIGARH

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT &  
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No. **327/CHD/2024**

निर्धारण वर्ष/ Assessment Year : 2015-16

Rajandeep Kaur, House No. 1556, Pushpak Complex, Sector 49 B, Chandigarh	Vs. बनाम	The PCIT,-1, Chandigarh
स्थायी लेखा सं./PAN No: ARFPK6582P		
अपीलार्थी/ APPELLANT		प्रत्यर्थी/ REPSONDENT

( HYBRID HEARING )

निर्धारिती की ओर से/Assessee by : Shri Parikshit Aggarwal, CA  
राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, CIT DR

सुनवाई की तारीख/Date of Hearing : 25.11.2024  
उद्घोषणा की तारीख/Date of Pronouncement : 27.11.2024

**आदेश/Order**

**Per Krinwant Sahay, A.M.:**

Appeal in this case has been filed by the Assessee against the order dated 14.03.2024 passed by the ld. Principal Commissioner of Income Tax, Chandigarh-1 us 263 of the Income Tax Act, 1961 (in short 'the Act').

2. Grounds of appeal are as under:-

1. That on law, facts & circumstances of the case, the Worthy Pr. CIT has grossly erred in assuming jurisdiction u/s 263 even when:

1.1. The original assessment order passed u/s 147 did not satisfy the twin conditions of being an 'erroneous order' and 'prejudicial to the interest of revenue'.

1.2. The Worthy Pr. CIT has erred in setting aside the assessment order u/s 147 and in directing the AO to make assessment afresh on the ground that AO had not conducted worthwhile enquiries during the assessment proceeding even when the AO had conducted thorough enquiries and also most importantly the Pr. CIT failed to carry out any enquiry himself and also failed to demonstrate which most necessary enquiry the Ld. AO failed to carry out.

1.3. The Worthy Pr. CIT failed to appreciate that inadequate inquiry does not amount to lack of inquiry so as to assume valid jurisdiction u/s 263.

1.4. The Worthy Pr. CIT has erred in setting aside the original assessment on the issue of alleged cash payment of Rs. 30,00,000/- for the purchase of property from M/s Homeland Buildwell Private Limited.

1.5. The Worthy Pr. CIT has erred in setting aside the original assessment order for the year in question even when the basis transaction did not pertain to the year in question.

1.6. The Worthy Pr. CIT has conducted the impugned proceedings u/s 263 in extreme

*haste and without affording reasonable opportunity of being heard to the appellant.*

*2. That the appellant craves leave for any addition, deletion or amendment in the grounds of appeal on or before the disposal of the same.*

3. Brief facts of the case as per the assessment order passed by the Assessing Officer are as under: -

“The assessee, Smt. Rajandeep Kaur, individual, female, filed her return of income in ITR-2 electronically for the A.Y. 2015-16 on 28/08/2015 declaring returned income of Rs. 4,84,430/- claiming nil refund. The same was processed u/s 143(1) resulting in nil refund and nil demand.

2. As per information available with the income tax department, disseminated on ‘Verification’ module of Insight portal under CRIU/VRU High Risk cases, the assessee has credits in A/c No. 13072000000939 of Rs. 63,35,100/- from M/s Orange Spice Development Co. LLP during the FY. 2014-15 relevant to A.Y. 2015-16. During the course of investigation proceedings carried out by DDIT (Inv), Mohali (Camp at Chandigarh), the assessee could not produce any satisfactory explanation regarding the nature and source of credits received from M/s Orange Space Development Co. LLP in the absence of which the transactions executed by the assessee remain unexplained. Hence, the Assessing Officer has

recorded the reasons and obtained approval from competent authority. The reasons for reopening of assessment for assessment year 2015-16 as per ITBA is as under:-

The assessee is an individual and filed her return of income for the A.Y. 2015-16 on 24.08.2015 declaring income after deductions of Rs 9,56,990/- by way of salary income of Rs. 9,54,531/-, business income of Rs 69,380/- and Rs 87,630/- from income from other sources.

As per information disseminated on 'Verification' module of Insight portal under CRIU/VRU High Risk cases, the assessee has executed the following transaction during the F.Y. 2014-15 relevant to A.Y. 2015-16.

Sr.No.	Nature of Transaction	Amount
1.	Credits in A/c No. 13072999999939 from M/s Orange Space Development CO.LLP	Rs. 55100/-

4. During the proceedings before us, ld. Counsel for the Assessee has brought on record that the reason on which the assessment was reopened was not related / connected to the Assessee. It may be a mistake because the Assessing Officer might have mentioned reasons for reopening of the case of the Assessee taking it as a reason for reopening of the case

for some other Assessee. The Id. Counsel also submitted that even the PCIT in his order passed u/s 263 of the Act has accepted this fact, which is as under: -

- “5. *On the perusal of record, it has been noticed that as per the copy of reasons recorded in ITBA portal for reopening the case, the assessee was in receipt of Rs 65,35,100/- from M/s Orange Space Development Co. LLP, to which she denied categorically that she was nowhere connected to the LLP. The assessee also furnished relevant documentary evidences in support of her claim. It is however, noticed that while going through the insight, portal, the reason for selection is cash payment of Rs 30,00,000/- for purchase of immovable property by Davender Singh Gill. Therefore, the reason for selection as provided in ITBA and insight are not matching and are completely different.*

*In view of the above, it is evident that the FAO has passed the assessment order without making proper enquiry with regard to the amount of Rs 30,00,000/- paid by the assessee in cash for the purchase of property from M/s Homeland Buildwell Pvt. Ltd. during the year under consideration which was readily available to the FAO. Had the FAO found that the information related to the transactions in a/c no 13072000000939 from M/s Orange Space Development Co.\_LLP did not pertain to the assessee the FAO could have enquired the source of cash payment amounting to Rs. 30,00,000/- paid by the Assessee for purchase of property from M/s*

*Homeland Buildwell Pvt. Ltd. as this information-was also in the knowledge of the FAO. The FAO, ignored even the notice u/s 143(2) of I. T. Act issued by the ITO, Ward-5(5), Chandigarh on 30.06.2021 wherein it was specifically mentioned that the assessee had made investment of Rs 30,00,000/- for purchase of an immovable property during the FY 2014-15 relevant to the AY 2015-16 as per the information available under CRIU/VRU High Risk Cases. This shows that the FAO failed to make enquiry regard to the source of cash payment of Rs 30,00,000/-towards the purchase of an immovable property from M/s Homeland Buildwell Pvt.”*

5. The ld. Counsel further pointed out that the issue of cash payment of Rs. 30 lacs for purchase of immovable property by Devinder Singh Gill as highlighted by the PCIT was also not connected with the Assessee. This fact may also be related to some other Assessee. Finally, the Counsel of the Assessee has brought it on record the case law of ‘CIT vs. Jet Airways (I) Ltd reported in [2010] 331 ITR 236’ [ 195 taxman 117 (Bom), wherein in was held that “While examining Explanation 3 to Section 147 of the Act has held that Assessing Officer has to necessarily accesses / re-assess the income which escaped assessment on the basis of the information of the reasonable belief for reopening of the

assessment. It is only on assessing / re-assessing such income which has escaped assessment in the reasons recorded, could it be opened to the Assessing Officer to assess / re-assess any other income which came to his notice during the re-assessment proceedings. However, in the absence of reassessing the income which escaped assessment and which was the basis for formation of belief in issuing the notice the order passed on re-assessment is bad in law.”

6. The ld. DR relied on the order of the PCIT-1, Chandigarh.

7. We have heard the findings given by the ld. PCIT in his order passed u/s 263 and we have also considered the arguments made by the Counsel of the Assessee during the proceedings before us. We have also considered the case laws brought on record by the Counsel of the Assessee. It is clear from Explanation 3 of Section 147 that the issue on which the case was reopened and notice was issued u/s 148 must have been assessed or re-assessed by the Assessing Officer before taking up any other issue coming to the notice during assessment / re-assessment proceedings. Because in this

case the PCIT himself has accepted it in his order passed by him u/s 263 of the Act that the reasons to believe in this case was wrongly taken up by the Assessing Officer while issuing the notice u/s 148. The PCIT has, however, brought on record some other issues to be re-assessed which was not the basis of belief while reopening of the case by Assessing Officer. We have considered the findings of the Assessing Officer and the ratio decided by the Hon'ble Mumbai High Court in the case of CIT vs. Jet Airways (supra) and we have also considered the issue raised by the PCIT in his order passed u/s 263. The Counsel of the Assessee has categorically brought it on record, during the proceedings before us, that even the issue highlighted by the PCIT in his order passed u/s 263 of the Act was also in no way related to the Assessee.

9. We find that the original reasons to believe taken by the Assessing Officer while reopening of the case of the Assessee was not a valid one (as accepted by the PCIT in his order passed u/s 263), therefore, any other issue which was not taken up at the time of the reopening of the case cannot be assessed subsequently without making assessment on the

issue which formed the basis of re-opening of the case. Thus, the order passed by the PCIT-1, Chandigarh cannot be sustained. Accordingly, Assessee's appeal is allowed.

10. In the result, Assessee's appeal is allowed.

Order pronounced on 27.11.2024.

**Sd/-**

**( RAJPAL YADAV )  
Vice President**

“आर.के.”

**Sd/-**

**( KRINWANT SAHAY )  
Accountant Member**

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT,  
CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar