

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, 'A' CHANDIGARH**

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

आयकर अपील सं./ ITA No. 398/CHD/2024

निर्धारण वर्ष / Assessment Year: 2018-19

Shri Amarjit Singh, House No.94, Billanwali Labana Solani (HP).	Vs	The PCIT-1, C.R.Building, Himalaya Marg, Sector 17-E, Chandigarh.
स्थायी लेखा सं./PAN NO: BKQPS7181H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri Sudhir Sehgal, Advocate

Revenue by : Shri Rohit Sharma, CIT, DR

Date of Hearing : 07.01.2025

Date of Pronouncement : 08.01.2025

**HYBRID HEARING**

**ORDER**

**PER RAJ PAL YADAV, VP**

The assessee is in appeal against the order of Id. Commissioner of Income Tax [in short 'the CIT'] dated 23.03.2024 passed under Section 263 of the Income Tax Act, 1961 in assessment year 2018-19.

2. It emerges out from the record that Assessing Officer has made an addition of Rs.3,34,62,664/- under Section 69A

as unexplained income. The AO did not charge the tax @ 60% as provided under Section 115BBE, therefore, ld. CIT took cognizance under Section 263 of the Income Tax Act. The assessee has pointed out that the addition made by the AO was challenged before the ld. CIT(A) who has deleted the addition. The Department came up in appeal before the Tribunal vide ITA No.4/CHD/2024. This appeal has been dismissed by the Tribunal vide order dated 08.08.2024. Copy of the Tribunal's order has been placed on the record. Thus, the very foundation to charge the assessee with tax has already been eliminated.

3. With the assistance of ld. Representative, we have gone through the record carefully. The dispute in the impugned order is whether a normal rate of tax @ 30%, or under Section 115BBE had to be charged @ 60%. The rate of tax could be available if there is any addition, once the addition stands deleted by the CIT(A) and upheld by the ITAT, therefore, there cannot be any cognizance of application of rate of tax on such item. The ld. CIT(A) ought to have taken cognizance of this fact when it was brought to his notice, but he

rejected this plea on the ground that the Department has not accepted the order of the CIT(A) and it is exploring further appeal before ITAT, but now the deletion of addition stands confirmed even at the end of the ITAT. Therefore, we are of the view that no action under Section 263 of the Act deserves to be taken against the assessee. We allow this appeal of the assessee and quash the impugned order passed under Section 263 of the Act.

4. In the result, appeal is allowed.

Order pronounced on 08.01.2025.

Sd/-  
**(KRINWANT SAHAY)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(RAJPAL YADAV)**  
**VICE PRESIDENT**

“Poonam”

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 आधिकारण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar