

**IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AGRA**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

**ITA No. 38/Agr/2021
(Assessment Year 2010-11)**

Hasrat Ullah Khan C/o Deepak Singh Advocate, 2, Court of Wards Compound, Aligarh, Uttar Pradesh-202001	Vs.	Pr.CIT-1, Aayakar Bhawan, Sanjay Palace, Agra Uttar Pradesh-282002
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAFCA0964R		
Appellant	..	Respondent

Appellant by :	Sh. Deepak Singh, Adv.
Respondent by :	Sh. Sukesh Kumar Jain, CIT-DR

Date of Hearing	10.02.2025
Date of Pronouncement	10.02.2025

ORDER

PER SATBEER SINGH GODARA, JUDICIAL MEMBER:

This assessee's appeal for assessment year 2010-11 arises against Pr. Commissioner of Income Tax(Appeals) (in short, the "Pr.CIT(A)"), Agra-1's DIN & order No. ITBA/REV/F/REV5/2020-21/1031700272(1) dated 23.03.2021, in proceedings u/s 143(3) r.w.s 147 of the Income-tax Act, 1961, (hereinafter referred to as the 'Act').

2. Heard both the parties at length. Case file perused.

3. It emerges during the course of hearing that the PCIT's section 263 revision directions have treated the Assessing Officer "regular" assessment dated 28.12.2017 as erroneous one causing prejudice to the interest of the Revenue on the ground that he had failed to verify the assessee's payment made for his daughter's admission in M/s Santosh Medical College.

4. Learned CIT-DR vehemently submits that the impugned revision directions have rightly issued as the assessment herein had been reopened based on the JD(IT)'s investigation report indicating payments made by the assessee involving capitation fee etc.

5. We have given our thoughtful consideration to the assessee pleadings and Revenue's foregoing vehement contentions. Learned PCIT has referred to a list such alleged payments forming part of the case record that the impugned addition ought to have been made by the Assessing Officer and his failure to this effect attracts Section 263 revision jurisdiction.

6. We find no reason to sustain the Revenue arguments supporting the impugned revision directions. This is for the precise reason that apart from self-signed list of payees including assessee's name; there is no other material against the assessee which could substantiate his alleged capitation fee and cash payments which could form basis of the consequential addition, for want of corroborative section 292C(1) would not admittedly apply in case of such a third person since it covers only the searched party. That being the case and the fact that the learned PCIT has proceeded on the basis of a mere search statement u/s 132(4) of the Act making same admission not carrying any significance as per

the CBDT's circular dated 10.03.2003, we hereby reverse the impugned section 263 revision directions in very terms. Ordered accordingly.

7. This assessee's appeal is allowed.

Order pronounced in the open court on 10.02.2025

Sd/-
(Manoj Kumar Aggarwal)
ACCOUNTANT MEMBER

Sd/-
(Satbeer Singh Godara)
JUDICIAL MEMBER

Dated 10.02.2025

PS: Rohit/Subodh, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT AGRA