

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, AGRA**

**BEFORE : SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER
AND
SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER**

ITA No.56/Agr/2022
Assessment Year: 2012-13

Sarika Srivastava 1/114-B, Gulab Rai Marg, Delhi Gate, Agra-282002.	Vs.	Pr. CIT, Income-tax-1 Agra.
PAN : AEOPS8100H		
(Appellant)		(Respondent)

ITA No.57/Agr/2022
Assessment Year: 2012-13

Atul Srivastava 1/114-B, Gulab Rai Marg, Delhi Gate, Agra-282002.	Vs.	Pr. CIT, Income-tax-1 Agra.
PAN : AGUPS9179C		
(Appellant)		(Respondent)

Assessee by	Ms. Ishita Farsaiya, Advocate
Department by	Sh. Sukesh Kumar Jain, CIT/DR

Date of hearing	27.03.2025
Date of pronouncement	30.04.2025

ORDER

Per Annapurna Gupta, Accountant Member:

The present appeals have been filed by different assessees against separate orders passed by the learned Principal Commissioner of Income-tax-1, Agra (in short "PCIT) dated 29.03.2022 under Section 263 of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

2. At the outset, Id. Counsel for the assessee contended that the assessee before us are spouses and the issues raised in the revisionary order are identical. She contended that common arguments are to be made in both the cases. Therefore, both the appeals were taken up together for hearing and are being disposed off by this common consolidated order.

3. The issues raised in both the appeals admittedly arising in the backdrop of identical facts, are being adjudicated by us dealing with the facts in the case of the assessee, Sarika Srivastava in ITA No. 56/Agr/2022.

4. Grounds raised by assessee in **ITA No. 56/Agr/2022** read as under :

“1. That the proceedings initiated under Section 263 of the Income Tax Act, 1961 (the Act) against the Appellant are void ab initio and unsustainable in law.

2. That the Impugned Order dated 29.03.2022 is in violation of the provisions of Section 263 of the Act and passed without considering the facts of the Appellant's case.

3. That the Ld. Pr. CIT, while initiating proceedings under Section 263 of the Act and passing the Impugned Order has failed to appreciate that the Ld. AO in the case of the Appellant passed the Assessment Order dated 31.10.2019 after duly considering all submissions of the Appellant.

4. That the Ld. Pr. CIT while making the order U/S 263 had ignored that the Asstt Order dt. 31-10-2019 had been passed U/S 143(3) read with Sec 148, and there is no escapement of Income as per Reason to Believe recorded by A.O. then no other matter can be subject to examination / verification in reassessment proceedings. Thus the Pr. CIT has erred in imitating proceedings U/S 263.

5. That the Asstt. Order dated 31-10-2019 is not prejudicial to the interests of the revenue.”

5. The order of the Id. PCIT in the case of Sarika Srivastava reveals that the assessee is a Doctor. For the impugned year, A .Y 2012-13, return of income was e-filed on 14.09.2012 declaring total income of Rs.17,94,720/-. Thereafter case was opened for scrutiny assessment u/s. 148 of the Act and assessment completed u/s. 143(3) r.w.s. 147 of the Act accepting the returned income of Rs.17,94,720/-. It is this assessment order passed u/s. 147 of the Act which has been held to be erroneous causing prejudice to the interest of revenue by the Id. PCIT in the impugned order before us passed u/s 263 of the Act.

6. Ld. PCIT, on perusal of record of assessment, noted several discrepancies therein, which find listed in his show cause notice reproduced at page -2 to 8 of the order as under :

I. In this regard, Notices u/s 263 of the Income Tax Act, 1961 dated 27.10.2021 and 18.11.2021 have been issued calling for certain explanations and documents. However, no compliance has been made till date.

II. You are being given further opportunity to explain your case. You are once again requested to submit explanations and documents as called for vide Notice u/s 263 dated 27.10.2021 (copy of which is enclosed).

III. I have examined the case record in your case for A.Y. 2012-13 and on examination of the case record several issues have emerged, which are discussed hereunder:

1. It is seen from the record that the Assessee sold 2 properties (as co-owner along with her husband Dr. Atul Srivastava) and the sale consideration received as per the Sale Deeds was Rs. 54,16,600/- out of which 50% share of the Assessee as co-owner amounted to Rs. 27,08,300/-.

1.1 Perusal of the 2 Sale Deeds shows that Plot No. 63 in Triveni Royal Farms, Village Artauni, Tehsil & District, Agra having Area of 1312.67 Sq. Metres for which sale consideration was disclosed at only Rs. 22,50,100/-, the minimum rate as per the Stamp Valuation Authority was Rs. 59,08,000/-

Similarly, Plot No. 64 in Triveni Royal Farms, Village Artauni, Tehsil & District, Agra having Area of 1279.23 Sq. Metres for which sale consideration was disclosed at only Rs. 31,66,500/-, the minimum rate as per the Stamp Valuation Authority was Rs. 57,57,000/-.

Thus, the actual valuation for both these plots sold was Rs. 1,16,65,000/- (Rs. 59,08,000 plus Rs. 57,57,000/-), whereas the sale consideration received as per the Sale Deed is only Rs. 54,16,600/- (Rs. 22,50,100/- plus Rs. 31,66,500/-). Thus, the value of the 2 plots sold by the Assessee as co-owner u/s 50C of the Income Tax Act, 1961 amounts to Rs. 1,16,65,000/-, but the sale consideration received has been disclosed at only Rs. 54,16,600/- by the 2 co-owners i.e. Dr. Sarika Srivastava and her husband Dr. Atul Srivastava. As per the provisions of Section 50C, the value adopted by the Stamp Valuation Authority was deemed to be the full value of the consideration received as a result of the transfer and thus, the difference of Rs. 62,48,400/- (Rs. 1,16,65,000/- less Rs. 54,16,600/-) was to be brought to tax.

Half share of the Assessee as co-owner of the properties amounted to Rs. 31,24,200/- and this amount i.e. the difference between the Sale Consideration disclosed as per the Sale Deed and the full value of the consideration received u/s 50C amounting to Rs. 31,24,200/- in the hands of the Assessee was to be brought to tax u/s 48 of the Income Tax Act, 1961. This Income was neither brought to tax nor any inquiry was made during assessment proceedings.

1.2 In an attempt to evade the provisions of law and to deliberately mislead the Revenue Authorities, the Assessee has falsely stated that the value u/s 50C of the Properties sold was Rs. 27,08,300/- which was not only false (the correct figure was Rs. 58,32,750/-, being more than double of that disclosed by the Assessee), but also a deliberate attempt was made to evade Income chargeable to tax.

2. The Assessee has claimed deduction u/s 54F of the Income Tax Act, 1961 amounting to Rs. 16,06,618/- as per Computation of Income filed along with Return. No proof of Construction/purchase of Residential

House or the quantum of investment in the same is available on record, and hence excess deduction has been allowed. Not only the deduction was wrongly allowed but also no inquiry was done during the Assessment proceedings u/s 147 of the Income Tax Act, 1961.

3. Perusal of the case record further shows that the Assessee has filed the copy of Bank Account at HDFC Bank only for the month of December, 2011 and the transactions appearing in the statement are only from 05.12.2011 to 24.12.2011 and even the Bank Statements for the full year has not been filed despite the fact that there are substantial transactions in the other parts of the year. Notice u/s 142(1) was issued on 17.07.2019 and in the Annexure enclosed with the Notice, the Bank statement for the entire year had been asked by the DCIT, Circle 2(1)(1), Agra but the Assessee filed the Bank statement only for the period 05.12.2011 to 24.12.2011 only. The Assessing Officer had required the Assessee as per point no. 4 of the Annexure to the Notice u/s 142(1) dated 17.07.2019 to comply as under:

"4. Copy of bank statements of all the account for the concerned year and source of all the cash deposits made during the year."

3.1 Another Notice u/s 142(1) was issued by the DCIT, Circle 2(1)(1), Agra on 23.07.2019 and as per point no. 4 of the Annexure to the Notice u/s 142(1) dated 23.07.2019 again required the Assessee to comply as under:

"4. Copy of bank statements of all the account for the concerned year and source of all the cash deposits made during the year."

3.2 Despite the repeated requirements u/s 142(1), the Assessee did not file the statement of Bank Accounts for all the year and filed the copy of Bank Account statements for a very short period i.e. 05.12.2011 to 24.12.2011 for HDFC Bank, Sanjay Place, Agra. Perusal of the Balance Sheet as on 31.03.2012 of the Assessee Dr. Sarika Srivastava shows that the details of Cash & Banks have been given in Schedule "D" from which it can be seen that the Assessee had in addition to bank account at HDFC Bank, a Bank Account No. 7398 at State Bank of India and a Bank Account No. 9865 in Punjab National bank along with FDRs in SBI and HDFC Bank. However, the Assessee did not file any statement of the account at State Bank of India & PNB and filed the Bank Statement for a very short period in December, 2011 for the HDFC Bank Account. Thus, the Assessee deliberately evaded furnishing the Bank Account statements.

It is further very surprising to note that the Assessing Officer did not make any inquiry on this issue despite the blatant non-compliance by the Assessee and completed the Assessment at Returned Income without any verification of the Bank Account and without any proper inquiry.

4. The case had been re-opened u/s 148 by the DCIT, Circle 2(1)(1), Agra primarily for examining the Source of Investment in units of Mutual Funds during the year amounting to Rs. 50 Lakhs as per the Assessment Order and 148 Reasons. However, even this issue was not properly examined by the DCIT, Central Circle-2(1)(1), Agra.

Reply from the Assessee filed on 27 March, 2019 in the office of the DCIT, Circle 2(1) (1), Agra is on record. Perusal of this reply shows that the date of transactions for purchase of units of Mutual Funds as per this reply extend from 07.12.2011 to 07.01.2011 which apparently is a typing mistake and this date might be 07.01.2012 or it might be a deliberate attempt to conceal most of the transactions so that the entire transactions could not be verified.

In the Bank account statement for the limited period of 05.12.2011 to 24.12.2011 for Dr. Sarika Srivastava 4 payments have been highlighted by the Assessee amounting to Rs. 7,50,000/-, Rs. 7,50,000/-, Rs. 5,00,000/- and Rs. 5,00,000/-. Neither the Assessee nor the DCIT, Circle 2(1)(1), Agra felt it necessary to have a proper verification about the investments in the Mutual Funds.

Further, even in this short period from 05.12.2011 to 24.12.2011, it is seen that various cash deposits into the bank account are made i.e. Rs. 70,000/- on 14.12.2011, Rs. 50,000/- on 15.12.2011, Rs. 60,000/- on 21.12.2011 were deposited in cash into the bank account but the source of the cash deposits was not examined by the DCIT, Circle 2(1)(1), Agra despite the fact that queries had been raised for explaining the source of all the cash deposits made during the year vide Notices u/s 142(1) dated 17.07.2019 & 23.07.2019 as noted above.

It is very strange to note that despite mentioning in point 3 of the reasons to believe that Income has escaped Assessment for A.Y. 2012-13, that the Assessee had cash deposits to be explained, the DCIT, Circle 2(1)(1), Agra completed the Assessment on 31.10.2019 without completion of the enquiry regarding cash deposits and without the Assessee explaining the source of cash deposits.

It is significant to note that vide Notice u/s 142(1) dated 17.07.2019 and Notice u/s 142(1) dated 23.07.2019 the A.O. had asked for the Cash Flow Statement for the Assessee as per point no. 1(d) in both of these Notices and the assessment was completed at the Returned Income without the Assessee having filed the Cash Flow Statement. Thus, inquiry relating to cash deposits and cash flow was initiated by the A.O. but the assessment was closed without making further inquiries and without any further verification regarding the cash deposits and cash flow.

5. During the relevant previous year, Mutual Fund units worth Rs. 5,50,000/- were bought of Kotak Floater Fund. However, units worth Rs.

2,50,000/- only have been disclosed in the Balance Sheet. The AO did not make inquiry in to the fact as to how the rest of the units worth Rs. 3,00,000/- have been disclosed.

6. In the Profit & Loss Account, LTCG on Land at Arsena of Rs. 24,28,300/- is shown. However, the Sale and Purchase Deed is not available on record for any such land. The AO did not inquire into this discrepancy.

7. In the Balance Sheet, a portion of "Land TIBCO" has been shown as sold during the year. However, Sale Deed of the said land is not available on record. The AO did not ask about the details of this transaction.

8. It is seen that the last reply by the Assessee was filed on 07.08.2019 in which the Assessee has mainly tried to explain the source of investment in Mutual funds. It is noteworthy that these investments include investments by the Assessee and her husband Dr. Atul Srivastava not only for the month of December 2011 but also February 2012 i.c. Rs. 50,000/- on 04.02.2012 by the Assessee and Rs. 1,50,000/- on 04.02.2012 by Dr. Atul Srivastava, husband of the Assessee. However, despite the fact that investments in Mutual Funds were claimed in February 2012, copy of bank account for any period outside December 2011 was neither submitted by the Assessee nor asked for again by the DCIT, Circle 2(1)(1), Agra before completion of the assessment, despite having earlier asked for complete bank statements for the year and for Cash Flow Statement, which was again not filed. It is further noticed that an investment of Rs. 15,00,000/- in Mutual Funds is shown on the date 08.12.2012 by the Assessee in the Reply dated 07.08.2019 but no query or clarification regarding the same has been made.

9. It is seen that the reply by the Assessee was filed on 07.08.2019 which did not cover many of the queries raised by the DCIT, Circle 2(1) (1), Agra and left many questions unanswered, and after a period of almost 3 months, rather than making further inquiry or verification which should have been made, the Assessing Officer suddenly passed the Assessment Order on 31.10.2019 accepting the Returned Income.

IV. In view of the above observations, please explain as to why it should not be concluded that the Assessment Order u/s 143(3)/147 of the Income Tax Act, 1961 dated 31.10.2019 for A.Y. 2012-13 in your case is erroneous in so far as it is prejudicial to interests of the revenue, and why it should not be revised u/s 263 of the Income Tax Act, 1961 by passing an order, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

V. You are hereby being granted final opportunity to furnish your explanation on each of the above mentioned issue(s) and issues mentioned in the Notice dated 27.10.2021, which you may submit in my

office on or before 24.03.2022(on any working day) or you may file e-reply to the email ID agra.pcitl@incometax.gov.in or on e-filing portal. In case you wish to be heard personally, you or your duly authorized Representative may attend my office on 23.03.2022 at 03.30 P.M. In case of non-compliance, it will be presumed that you have nothing to say in your case and the case will be decided on merits on the basis of documents available on record.”

7. As is evident from the above, the discrepancies noted by the Id. PCIT are as under :

- (1). That despite records revealing stamp duty value of 2 properties sold by the assessee during the year exceeding the actual consideration received, the AO failed to invoke section 50C of the Act, while assessing capital gains earned on the said transaction, and make addition of the excess of the stamp duty value to the actual consideration received.
- (2). The assessee was found to have been allowed claim of deduction /exemption of its capital gain u/s. 54F of the Act amounting to Rs.16,06,618/- without any proof / evidence of eligibility of the same. He noted no enquiry conducted by the Assessing Officer with respect to the same.
- (3) That despite the AO asking the assessee to file copies of all bank statements, the same were not filed by the assessee and the AO ignored the said fact.

- (4). That even on the issue for which jurisdiction to assess u/s 147 of the Act was assumed by the AO complete inquiry was not conducted. Learned PCIT noted that the case of the assessee was reopened for examining the source of investment in mutual funds of Rs.50,00,000/-. He noted from the records that the assessee while explaining the source of investments, highlighted four payments for the limited period from 05.12.2011 to 24.12.2011 amounting in all to Rs.25,00,000/-, but no enquiry or investigation was made with respect to the same by the Assessing Officer.
- (5). Ld. PCIT also noted that there were several cash deposits in bank and despite the fact that queries had been raised for explaining the source, the same was not examined by the Assessing Officer.
- (6). PCIT also noted that while the assessee had bought units of Kotak Floater Fund worth Rs.5.50 lacs. However, in the balance sheet, units worth Rs.2.5 lacs only were disclosed and the Assessing Officer did not make any enquiry into the fact as to how rest of the units of Rs.3.00 lacs had been disclosed.
- (7). He further noted the assessee to have shown long term capital gain on sale of land in Profit and loss account, but no enquiry was made

by the Assessing Officer with respect to the same nor were deeds of purchase and sale of the land available on record. The assessee was also noted to have sold a portion of "Land TIBCO" and no sale deed was available on record.

(8). Learned PCIT noted that the only reply filed to explain the source of investment in the mutual funds stated the assessee to have made the investment in the period December, 2011 and Feb. 2012. However, copy of the bank account for February, 2012 was not filed by the assessee.

Ld. PCIT accordingly noted that many queries raised by the AO were un-answered / not completely answered yet the Assessing Officer had accepted the returned income of the assessee as also several claims /issues were allowed without being examined.

8. When confronted with the same, the assessee stated to the Ld. PCIT that there was no error in the order of the AO since the assessee had explained to the satisfaction of the AO that there was no escapement of income vis a vis source of investment in mutual funds remaining unexplained, for which reason the case of the assessee was reopened. It was pointed out to the Ld.PCIT that the assessee had explained to the AO

that the said investments were duly reflected in her Balance Sheet and the source of investment therein therefore duly disclosed. That therefore there was no question of escapement of income and the proceedings initiated by the AO were therefore invalid and needed to be dropped. The assessee pointed out to Id. PCIT, that despite stating so, Id. Assessing Officer did not drop the proceedings but completed the assessment though without making any addition to the returned income. She pointed out to the Id. PCIT that from the contents of assessment order it is evident that the reasons to believe recorded by the Assessing Officer failed. That it is settled proposition of law that if no addition had been made by the Assessing Officer in the assessment order on the basis of the reasons recorded, notice u/s. 148 becomes invalid and no addition can be made on any other income.

9. Reply of the assessee was considered by Id. PCIT and was rejected stating that the issue for which reopening was resorted to was clearly not enquired by the Assessing Officer and therefore, proposition of law relied upon by the assessee could not be applied in the present case. The relevant findings of the Id. PCIT at para 5 to 9 of his order read as under :

“The reply filed by the Assessee has been considered along with the submissions by her learned Counsel. On consideration of the entire facts of the case including departmental record, ITBA Portal etc. the following conclusions are drawn:

The Assessee's entire reply revolves around the Hon'ble Maharashtra High Court decision in the case of CIT v/s Jet Airways [331 ITR 236] as quoted by the Assessee that "if no addition had been made by A.O. in Asstt Order on basis of such reasons recorded. Then in such circumstance the Notice U/S 148 becomes invalid then no additions can be made for any other income."

However, no relief can be given to the Assessee on the basis of the above decision as it has been clearly enumerated in the Point 5 and Point 8 of the Notice u/s 263 dated 17.03.2022 that the Reason recorded u/s 148 of the Income Tax Act, 1961 i.e. Issues regarding investments in Mutual Funds had not been properly inquired into and verified by the Assessing Officer during the course of assessment proceeding, and these are to be examined for which directions have to be issued u/s 263 and hence, the issues forming the basis of reason recorded are itself to be examined. Accordingly, the Notice u/s 148 does not become invalid even if the principle laid down in the decision of Jet Airways (Supra) is applied. Hence the argument by the learned Counsel does not in any way affect the proceedings u/s 263,

b. The Assessee's contention that the A.O. made no addition on basis of Reason to believe hence, the AO was not legally empowered to make any addition for any other Income does not stand as Point 3 of the Reasons recorded u/s 148 of the Income Tax Act, 1961 clearly mentions that the Assessee had Cash Deposits to be explained, which was entirely left to be inquired into during the course of assessment proceedings.

The Hon'ble Supreme Court in Rampyari Devi Saraogi vs. CIT (1968) 67 ITR 84 (SC) and Tara Devi Agarwal vs. CIT (1973) 88 ITR 323 (SC) held that "...where Assessing Officer has accepted a particular contention/issue without any enquiry or evidence whatsoever, Order w/s 263 in the case of Sarika Srivastava the order is erroneous and prejudicial to the interest of the Revenue".

7. I have carefully examined the material available on the record and find that the Order passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interests of the revenue and hence suitable order under section 263 is to be passed.

8. In view of the COVID pandemic and resultant economic and health hardships being faced by a lot of persons, considerate view is being taken in this case, where the scope of actions include not just that of cancelling the assessment and directing a fresh assessment, but also modifying the assessment, and even passing an Order enhancing the assessment.

9. After careful consideration of the material available on record, it is found that the order passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interests of the revenue on the issues mentioned

above. Therefore, the Assessment Order passed u/s 143(3) r.w.s. 147 dated 31.10.2019 by the Assessing Officer in your case for A.Y. 2012-13 is hereby modified (partly set aside) with the directions to the Assessing Officer to examine the issues as mentioned in Para 1 to Para 8 of Notice u/s 263 dated 17.03.2022 (appearing in Para 3 of this Order) and to pass an Order accordingly after affording reasonable opportunity of being heard to the Assessee.”

10. The arguments of the Id. Counsel for the assessee briefly put are as under :

- (1). There was no finding of any error by the Id. PCIT.
- (2). Once the Assessing Officer was satisfied in proceedings u/s 147 of the Act, no proceedings u/s 263 of the Act can be resorted to. In this regard she relied upon the decision of Calcutta High Court in PCIT vs. Karan Polymers Pvt. Ltd.
- (3). Once proceedings u/s 147 of the Act have taken place, no proceedings u/s. 263 of the Act can happen. Reliance was placed on the order of ITAT, Ahmedabad in Hiren Kumar Lavjibhai Kanani (ITA No. 522/Ahd/2024) and of Hon'ble Allahabad High Court in Meerut Roller Flour Mills (P) Ltd. vs. CIT (2019) 110 taxmann.com 170 (Allahabad).

11. Learned DR countered by stating that Id. PCIT clearly brought out the discrepancies and errors in the order of the Assessing Officer in the show cause notice issued u/s 263 of the Act and there is no need to reiterate the

same. That it was a clear case of no enquiry by the AO on the issues raised in the assessment and the order was rightly held by the Id. PCIT to be erroneous causing prejudice to the Revenue in terms of the provisions of Explanation 2A to section 263 of the Act. He further contended that there is no bar on the Assessing Officer for exploring other issues in reassessment proceedings other than for which the reassessment was resorted to.

12. We have heard the contentions of both the parties and carefully gone through the records and perused the case laws.

13. Undisputedly, the order found to be erroneous in the present case is the order passed u/s. 147 of the Act. It is also a fact on record that reassessment was resorted to for the reason that the assessee was noted to have made investments in the mutual funds to the tune of Rs.50.00 lacs, source of which was unexplained and the Assessing Officer had reason to believe that the income to this extent had escaped assessment. Perusal of the copy of the reasons recorded by the AO placed before us at P.B 2-3 of the Paper Book reveal the aforesaid fact. The Ld. PCIT has recorded several issues which remained to be inquired into by the AO despite records revealing that they called for further inquiry as noted above at para of our order above, including the issue for which reopening was resorted to by the AO.

14. The contention of the Ld. Counsel for the assessee before us is that it was satisfactorily explained to the AO that there was no escapement of income and therefore there was no error in the order vis a vis the said issue and as a consequence thereof since the basis for assuming jurisdiction u/s 147 of the Act by the AO had failed , he had no jurisdiction to inquire into other issues. That therefore both on the issue for which reopening was resorted as also other issues noted by the Ld. PCIT , there was no error in the order of the AO for not conducting adequate inquiries with respect to the same.

15. The Ld. PCIT , we have noted does not dispute the proposition of law that where the basis for assuming jurisdiction u/s 147 of the Act fails no addition can be made on any other issues.He however finds the said proposition not applicable in the present case since , as per the Ld. PCIT, the AO's order was erroneous in accepting assesses explanation on the issue for which reopening was resorted. As per the Ld. PCIT therefore it was not a case where there was no escapement of income as noted by the AO in his reasons recorded.

16. The limited issue for our consideration therefore is whether the assesses explanation to the AO regarding the source of investment in

mutual funds was a reasonable and plausible explanation, that therefore whether the AO had rightly accepted the same and made no addition on account of it and that therefore as a consequence the AO had no jurisdiction to consider any other issue in the reassessment proceedings.

17. During the course of hearing before us, it was pointed out from the letter filed to the Id. PCIT that the assessee had communicated to the Assessing Officer during the assessment proceedings that the investment in mutual funds was reflected in her balance sheet and therefore, could not be said to be from undisclosed sources. That accordingly, there was no escapement of income.

18. The order of the Ld. PCIT does not reveal any infirmity noted by him in this explanation of the assessee of the investments being from disclosed sources having being accounted for in her books of accounts and disclosed in her Balance Sheet. Even the Ld. DR was unable to point out any infirmity in the same before us. Also, we find the explanation of the assessee to be reasonable, plausible and logical that when the investment is disclosed in the Balance Sheet of the assessee, it goes without saying that the source of investment in the same stands duly accounted for and also disclosed.

There is no case, we agree with the Ld. Counsel for the assessee, of such investments being from undisclosed sources.

19. The Ld. PCIT has rejected this contention of the assessee stating that the issue has not been properly inquired into by the AO during reassessment proceedings and despite the assessee filing evidence of source of part of investment through banking channels AO accepted entire investments as duly explained.. We do not find any merit in the same. When the investment is duly disclosed in the Balance Sheet of the assessee, the source thereof also stands accounted for and reflected in the balance sheet. It is not that the investment is from sources outside the books of the assessee. There is no question of the same being from undisclosed sources and no need therefore for the AO to make any inquiries vis avis the source of the same.

20. We therefore hold that there was no error in the order of the AO making no addition on account of the income which he believed had escaped assessment.

21. Ld. PCIT, we have noted, has also rejected assesses contention stating that the reopening was resorted to not only for the source of investments in mutual fund being from unexplained sources but also on

account of cash deposits in the bank account of the assessee. But this we find is factually incorrect. As noted by us at para13 of our order above, we have perused the contents of the reasons for reopening recorded by the AO, copy of which was placed before us at P.B 2-3 and we have noted that the belief of escapement of income of the AO was only on account of source of investment in mutual funds. Therefore this basis of the Ld. PCIT for rejecting assesses contention is we find based on incorrect appreciation of facts and is therefore without any merit.

22. To conclude therefore, with there being no dispute with respect to the proposition of law that where the belief of escapement of income fails no other addition can be made by the AO, we agree with the Ld.Counsel for the assessee that there was no error in the order of the AO for not having inquired into other issues noted by the Ld. PCIT.

23. In the light of the same, it is clear that there was neither any error in the order of the Assessing Officer, vis a vis issue for which reopening was resorted to, making no addition on account of investment in mutual funds and also with respect to the other issues. It is clear that the Assessing Officer could not have made any enquiry with respect to the same on account of settled proposition of law accepted by the Ld.PCIT also. The

errors noted by the Id. PCIT, we hold, clearly fall beyond the scope of enquiry of the Assessing Officer during the reassessment proceedings. The order of the Id. PCIT is therefore held to be not sustainable in law and is accordingly set aside.

24. Both the appeals of the assesseees are allowed in above terms.

Order pronounced in the open court on 30.04.2025.

**Sd/-
(SUNIL KUMAR SINGH)
JUDICIAL MEMBER**

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Dated: 30.04.2025

*aks/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra