

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER  
AND SH. BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**I.T.A. No. 138/Asr/2024  
Assessment Year: 2012-13**

Karan Singh, Village Bungal P.O. Vadhani Pathankot, Punjab. [PAN:-DDTPS1707K] <b>(Appellant)</b>	Vs.	ITO, Ward-6(2), Pathankot.  <b>(Respondent)</b>
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<b>Appellant by</b>	None (written submission).
<b>Respondent by</b>	Sh. Charan Dass, Sr. DR

<b>Date of Hearing</b>	29.05.2025
<b>Date of Pronouncement</b>	07.07.2025

**ORDER**

**Per: Udayan Dasgupta, J.M.:**

This appeal is filed by assessee against order of Ld. JCIT (A), Panaji, passed u/s 250 of the Income Tax Act 1961, dated 30.01.2024 which has arisen from the order of the AO Ward -6(2), Pathankot passed u/s 143(3)/147 of the Act dated 09.11.2019.

2. The grounds of appeal in Form No. 36 are as under:

*“1 The Ld. ADDL/JCIT Appeal Panaji has erred both question of law and facts in upholding the reopening of the case*

*U/s 148 as no proper reason were recorded by the Ld. A.O. and there were no reasons to belief existed in the case, at the time of reopening.*

*2 The Ld. ADDL/JCIT Appeal Panaji has erred both question of law and facts in upholding the addition of Rs. 595000/- U/s 69 when the source of cash deposit was duly explained along with documentary evidences during the appellate proceeding as well as assessment proceedings.*

*3 The Ld. AddL/JCIT Appeal Panaji has erred both question of law in upholding the assessment on his own motion without appreciating the documentary evidences and the case law relied upon and therefore the order passed U/s 250 of the Income Tax Act, 1961 is not tenable and is bad in law.*

*4 That the Ld. AddL/JCIT Appeal Panaji has erred both question of law and fact in upholding the interest charged U/s 234A and B of the Act.*

*5 The appellant craves leave to amend, alter or add any ground of appeal before the appeal is heard or disposed off.”*

3. Brief facts emerging from record are that the assessee is individual had deposited an amount of Rs.10 lakhs in bank with State Bank of India during the financial year 2011-12 (relevant to the assessment year under appeal). In absence of any return inquiry was conducted u/s 133(6) of the Act and the response filed by the assessee explaining the deposit of cash to have come out of advance received against

the agreement to sale of agricultural land has not been accepted by the AO at face value, in absence of any further documents relating to the registered sale deed in support of the contention of the assessee. Thereafter proceedings were initiated u/s 148 against which return were submitted by the assessee declaring a total income of Rs.1,10,500/- (+) agricultural income of Rs.3,10,000/-. During the course of assessment proceedings. The Id. AR of the assessee furnished explanation regarding the source of bank deposit, to have come out of agricultural income to have been earned out of agricultural land measuring ten acres and the assessee was also said to have earned income from seasonal crops like growing and sale of mangoes.

3.1 However, in respect of the advance which is claimed to have been received by the assessee against proposed sale of agricultural land from one *Mr. Davinder Kaburia*, the said contention of the assessee could not be substantiated because the assessee failed to produce the second party and the assessee also could not produce the subsequent registered sale deed which might have been executed in favour of the buyer. However, after consideration of documentary evidence regarding the jamabandi of land consisting of 10 acres and rental income earned by the assessee, the AO arrived at a conclusion that the assessee has been able to explain the cash availability of Rs.4,05,000/- only, and he has given benefit to the assessee to that extent. The balance amount of cash deposit (*Rs.10 lakhs (-) Rs.4,05,000/-*) balance

Rs.5.95 lakhs has remained unexplained and the same has been added back to the total income u/s 69 of the Act.

4. The matter was carried in appeal before the Id. first appellate authority and the Id. JCIT, Panaji considering the submission and documentary evidences filed by the assessee has dismissed the appeal by observing as follows:

*“As regards the contention of the appellant that Rs. 10,00,000/- deposited in the State Bank of India is the advance received from the other parties as four agreements to sale. The AO has not accepted the contention of the appellant since agreement to sale was not registered it had no evidence value as per law. Further the AO contented that the appellant failed to produce the second party or confirmation from him. On perusal of the both appellant and AOs contention, this appellant authority is of the view that the appellant failed to discharge his onus explaining the source of Rupees ten lakhs either by furnishing clinching documentary evidence in the farm of registered sale deed or in the absence of same by producing the second party especially. In view of fact that AO disapprove agreement of sale because is lacked the legal sanctity and being not enforceable therefore the appellant should have produced other clinching evidence viz. evidence of requiring to adherence to second party or the other party to prove the contention of the source of the cash.*

*As regards the contention of the appellant source of cash deposit from agriculture land income and small rental income. On perusal of assessment order it is seen that since the appellant had furnished the jamabandis of ten acres land only and the AO had rightly accepted the agricultural income of rupees three lakhs @30,000 per acre. Further it is seen that AO had accepted rental income of rupees 1,05,000/- which is shown in the return of income. If appellant was not convinced with the determination of agricultural income of rupees of three lakhs @30,000 per acre for ten acre, the appellant should have produced evidence of actual agricultural income by furnishing document related to cash of cultivation, purchase of seeds, fertilizers, labour/machinery used etc. to prove the actual agricultural income.*

*In absence of any clinching evidence during the appellant proceedings addition made of rupees 5,95,000/- under section 69 of the IT Act by the AO is upheld. Accordingly ground no. 2 and 3 of the appeal filed by the appellant is dismissed.”*

5. Now, the assessee is in appeal before the tribunal on the ground contained in the memorandum of appeal.
6. The Id. AR of the assessee submitted that notice u/s 148 has been issued without proper reasons recorded by the AO. We find from record that on the basis

of information and materials in possession of the AO that the assessee has deposited Rs.10 lakhs in cash with State Bank of India, inquiries were conducted u/s 133(6) of the Act against which response has been received from the assessee's counsel regarding the explanation that cash deposit has been sourced out of advance against sale of agricultural land, but this explanation was never supported by any documentary evidence or by any confirmation from the proposed buyer. Since the explanation was not satisfactory the AO after recording reasons has proceeded to initiate proceedings u/s 147 as per procedure of law. As such, we are of the opinion that in absence of satisfactory explanation explaining the source of deposit, the AO has reasons to believe that income has escaped assessment and as such, notice u/s 148 has been properly issued.

6.1 On merits of the case, the ld. AR of the assessee furnished a paper book containing 102 pages which certified to have been filed before the lower authorities. The contents in the paper book filed before the ld. AO and ld. first appellate authority, are copies of agreement to sell, copy of *Sarpanch Gram Panchayat Bungal Block Dhar Kalan* certifying to the effect that the assessee Mr. Karan Singh is the owner of *Mango orchid at Khasra No. 3031/2664* on which he was growing mangoes approximately 220 mango trees. (*This certificate is dated 29.06.2024 which means this certificate is obtained post assessment and was also not available*

*before the first appellate authority*). As such, the veracity of the certificate without any verification cannot be accepted.

6.2 However, he has also furnished land revenue records (*Jamabandi*) and *Godawari revenue records* contained in paper book *pages 47 to 81* and from *pages 82 to 90* in support of agricultural income. We further note that the paper book contained in *page nos. 47 to 57* contains records of *jamabandi* mentioning the name and details of the cultivator and the area of cultivation and also it contains description regarding the *type of land* and the *nature of crops* that are cultivated like *maize, wheat, and tomatos* etc.

6.3 The Id. AR of the assessee has submitted that the assessee is owning 10 acres (ten) of agricultural land plus mangoes orchid, from which he derived agricultural income and the agricultural income so derived, is sufficient to cover cash deposit of Rs.10 lakhs in the bank accounts.

7. The Id. DR relied on the order of the Id. CIT(A).

8. We have heard the rival submission and considered the materials on record and we find that in the instant case, the assessee has filed different explanations while explaining the source of cash deposit in bank account.

8.1 Firstly, he has tried to explain the said deposit by way of an agreement to sale which could not be supported by sufficient evidence or by any confirmation from

the proposed buyer. Thereafter, the assessee came forward to submit documentary evidence claiming to be owner of 10 acres (ten) of agricultural land from which agricultural income has been earned and though he has filed some documentary evidences like *jamabandi* he has not filed any evidence relating to the sale of agricultural produce (*for example J, Form has not been filed*). Moreover, he has also submitted that he is the owner of mango orchid and has been earning from agricultural income from sale of mangoes.

8.2 However, considering all the factual aspect and documentary evidence and submissions the AO has arrived at a reasonable conclusion that the assessee was capable of earning an amount of Rs.3 lakhs from agricultural activity and has also earned Rs.1,05,000/- from rental income totalling Rs.4,05,000/-, benefit of which has been allowed and has sustained the balance amount of Rs.5,95,000/- as unexplained.

8.3 Considering the submission of the assessee and the documentary evidence of *ownership of land* and also the evidence submitted regarding the cultivation taking place on such land resulting in cultivation of various produce such as paddy, wheat etc. and even considering the claim of the assessee regarding sale of mangoes, (*all taken together*), we arrive at a logical conclusion that a further benefit of Rs.3 (Three) lakhs may be allowed to the assessee on estimate, as income from agriculture

in absence of *form J* being produced or in absence of any documentary evidence of sale proceeds of agricultural crops being produced. As such, the addition on this count is restricted to Rs.2,95,000/- and the assessee gets consequential relief. As such, the appeal of the assessee is partly allowed.

9. In the result, the appeal of the assessee is partly allowed.

**Order pronounced on 07.07 .2025 under Rule 34(4) of the Income Tax Appellate Tribunal Rules 1963.**

Sd/-

**(BRAJESH KUMAR SINGH)**  
Accountant Member

Sd/-

**(UDAYAN DASGUPTA)**  
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By order

