

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

**BEFORE SH. UDAYAN DASGUPTA, JUDICIAL MEMBER
AND SH. KHETTRA MOHAN ROY, ACCOUNTANT MEMBER**

I.T.A. No. 310/Asr/2023
Assessment Year: 2012-13

Sh. Rajinder Singh,
Near Bus Stand, VPO
Ralla, Mansa, Punjab
[PAN: CVWPS 3155D]
(Appellant)

Vs.

Income Tax Officer,
Ward-1(4), Mansa
(Respondent)

Appellant by : Sh. K. R. Jain, Adv.
Respondent by : Sh. Charan Dass, Sr. D.R.
Date of Hearing : 20.08.2025
Date of Pronouncement : 22.08.2025

ORDER

Per Udayan Dasgupta, J.M.:

This appeal is filed by the assessee against the order of the ld. CIT (A) NFAC, Delhi dated 22.09.2023 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, Ward-1(4), Mansa passed u/s 147 (r.w.s. 144) of the Act, 1961 dated 17.12.2019.

2. There are eleven grounds of appeal taken by the assessee in Form No. 36 out of which ground no. 5 is in respect of non service of notice u/s 148 of the Act, 61, on the assessee and the ground no. 4 is an objection to no proper opportunity of hearing being allowed by the Id. first appellate authority.

3. Brief facts emerging from records are that the assessee is an individual and is claimed to be an agriculturist, without any other source of income (other than agricultural receipts). During the financial year 2011-12 an amount of Rs.49,50,000/- has been deposited by the assessee in his bank account and no return of income has been filed. In course of scrutiny, in absence of any explanations or any response from the assessee, the assessment was completed ex-parte on a total income of Rs.49,50,000/- (*the entire cash deposit being assessed as income u/s 69A of the Act*).

4. The matter carried in appeal has been dismissed by the Id. CIT(A) for non-payment of advance tax, coupled with the fact that no income tax return has been filed.

5. Now, the assessee is in appeal before the Tribunal on the grounds contained in the memorandum of appeal. In course of hearing, the Id. AR of the assessee has filed a short paper book containing the passport of the assessee and submitted that the assessee was in USA during the course of appeal proceedings as a result of which proper representation of appeal could not be made before the Id. first appellate

authority. He further submitted that in the instant case, the assessee has got no income other than agricultural income and as such no return of income has been filed because he has got no taxable income.

6. He further pointed out that in course of proceedings before the first appellate authority a deficiency letter has been issued which has been duly complied with by the assessee and the copy of the reply has been placed in paper book (page no. 32). He further submitted that explanations of the source of cash deposit in bank account has been explained to have come from his relatives and friends who has handed over cash for deposit in his bank account for the purpose of purchase of agricultural lands and he has filed a synopsis (in page no. 5 of the paper book) to clarify that the total amount received in cash has been deposited in his bank account and thereafter the said amount has been utilized through bank channel (*RTGS*) for purchase of agricultural lands in the name of relatives vide execution of proper registered title deeds in the name of the respective relatives from whom the cash has been received.

7. He further submitted that out of the total deposits in bank, small amounts are out of his agricultural produce which are negligible amount and earmarked. He submitted copies of all registered purchase deeds of conveyance in the names of the individual relatives for whom the said lands has been purchased and the same are all on record. In other words, he submitted that the entire deposit of Rs.49,50,000/- are

explained to have been received from the respective persons whose names appeared in the deed of conveyance (purchased deed), and he has not derived any personal benefits. He further stated that the Id. CIT(A) should have issued an opportunity of hearing before dismissing the appeal by refusing to admit the same on the grounds of non-payment of advance tax being hit by provisions of section 249(4)(b) of the Act, when on the facts of the instant case, no advance tax is payable by the *assessee u/s 208 r.w.s. 210 of the Act* where advance taxes is payable out of own accord and in the instant case, there is no taxable income of the assessee himself.

8. As such, he prayed for an opportunity before the Id. first appellate authority to explain his case with all necessary documentary evidences for the proper disposal of the appeal.

9. The Id. DR relied on the order of the Id. CIT(A) but has no objection if the matter is remanded back to the files of the first appellate authority for adjudication on merits.

10. We have heard the rival submissions and considered the materials on record and we find that there has been non compliance before the Assessing Officer and documentary evidences now filed before the Tribunal needs to be properly verified regarding its authenticity. However, we find from the documents submitted before us

that the assessee is apparently not liable to pay any advance taxes *u/s* 208 of the Act and as such he has no liability *u/s* 208 (r.w. 210) of the Act in absence of any taxable income, (*on the basis of presentation of documents made by the assessee before us*).

11. As such, in the interest of justice, we remand the matter back to the files of the Id. CIT(A) with a direction to admit the appeal for hearing of the case and to dispose of the grounds contained in *Form No. 35* on merits and the assessee is directed to file all documentary evidences in support of his contention to explain the source of cash deposited in bank account, to the satisfaction of the appellate authority. Regarding the fresh documents submitted by the assessee, necessary verifications may be conducted and report may be obtained from the AO as per provisions of law.

12. The assessee may be allowed reasonable opportunity of being heard.

13. We have not expressed any opinion on the authenticity and genuineness of the documentary evidences that has been submitted before us, which however, needs verification regarding its authenticity.

14. We have not expressed any opinion on merits of the case and all legal issues are left open.

15. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in open court as on 22.08.2025.

Sd/-
(Khettra Mohan Roy)
Accountant Member

Sd/-
(Udayan Dasgupta)
Judicial Member

GP/Sr.PS

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy

By Order