

आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAIPUR BENCH, RAIPUR

BEFORE SHRI R.K PANDA, VICE PRESIDENT
AND
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.241/RPR/2025
निर्धारण वर्ष / Assessment Year : 2021-22

Ghanshyam Lal
Ward No.06, Chhatauna
Bilaspur (C.G.)-495 222
PAN: AJUPL0084A

.....अपीलार्थी / Appellant

बनाम / V/s.

The Pr. Commissioner of Income Tax,
Raipur-1 (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri Yogesh Sethia, CA
Revenue by : Ms. Manisha Kinnu, CIT-DR

सुनवाई की तारीख / Date of Hearing : 14.11.2025

घोषणा की तारीख / Date of Pronouncement : 14.11.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM:**

This appeal preferred by the assessee emanates from the order of the Ld. Pr. Commissioner of Income Tax, Raipur-1 (for short 'Pr. CIT') passed u/s.263 of the Income Tax Act, 1961 (for short 'the Act') dated 20.03.2025 for the assessment year 2021-22 as per the grounds of appeal on record.

2. That on perusal of the grounds of appeal raised by the assessee, it is quite discernable that the assessee is aggrieved by passing order u/s. 263 of the Act by the Pr. CIT and that it is the contention raised by the Ld. Counsel for the assessee at the time of hearing that such order has been passed without arriving at any satisfaction, hence, liable to be quashed.

3. In this regard, let us examine the facts on record. The assessee is a farmer and is engaged in the activity of cultivating paddy and had filed his return of income for A.Y.2021-22 on 31.03.2022 declaring an income of Rs.1,54,590/-. The assessee has claimed exempt income from sale of agricultural land of Rs.58,40,596/- u/s. 10 of the Act. Subsequently, the case was selected for completed scrutiny assessment with the reason "claim of large exempt income". During the course of assessment proceedings, it was observed by the A.O that the assessee had made cash deposits of Rs.16,10,000/- in his bank account maintained with State

Bank of India, Bilaspur. That since the assessee could not substantiate the nature and source of making such cash deposits, the A.O treated the same as undisclosed income and added it u/s. 68 of the Act to the income of the assessee. Assessment was completed by the A.O determining total income at Rs.17,64,590/-.

4. Later on, it was observed that the assessee had sold three different properties situated at Bodri, Bilaspur for sale consideration of Rs.65,68,200/- [Rs.17,70,000/- (+) Rs.10,90,000/- (+) Rs.37,08,200/-]. In this regard, it was observed by the Pr. CIT that Bodri is within the jurisdiction of the Bilaspur Municipality and therefore, lands sold fall within the Municipal limits of Bilaspur and accordingly, qualifies as capital asset u/s.2(14)(iii) (b) of the Act. It was therefore evident that all the transferred lands were capital assets within the meaning of Section 2(14) of the Act and the assessee was liable to pay capital gain tax for such transfer of properties. The omission of the A.O to enquire and assess this aspect of capital gain had caused under-assessment of income of Rs.65,68,200/- causing thereby under levy of tax, surcharge and cess of Rs.14,80,974/- in addition to applicable interest u/s. 234A/234B/234C of the Act.

5. Further, it was pointed out in the order of the Pr. CIT that the Government of Chhattisgarh u/s. 405(1) of Chhattisgarh Municipal

Corporation Act, 1956 has issued the gazette notification to extent the boundary of Municipal Corporation, Bilaspur. It has included Municipal Counsel, Nagar Panchayat, Gram Panchayat and Gram (village) for extension of the boundary. Accordingly, Chhattisgarh State Government in its Notification No. F1-102/2019/18, dated 31.07.2019 has extended the municipal limits of the Municipal Corporation, Bilaspur and by virtue of this notification also the impugned transferred land falls within the aforesaid limits of Municipal Corporation, Bilaspur. Thus, the said land is evidently the capital asset in terms with Section 2(14) of the Act. Accordingly, the Pr. CIT held that no enquiry on this issues or non-application of mind by the A.O results in under-assessment and under levy of taxes and accordingly, such assessment order was erroneous in so far it was prejudicial to the interest of the revenue.

6. At the time of hearing, the Ld. Counsel for the assessee submitted that the order passed by the Pr. CIT u/s. 263 of the Act was vitiated since there was no reasoning for passing revisional order and hence, it was liable to be quashed.

7. Per contra, the Ld. CIT-DR vehemently supported the findings of the Ld. Pr. CIT and submitted that there has been clearly brought out in the order of the Pr. CIT that the transferred land falls within the municipal limit of Bilaspur and events are catapulted to make those lands part of the

Bilaspur Municipality which has been clearly enshrined in the findings of the Pr. CIT which therefore, has to be upheld.

8. We have heard the rival submissions and carefully considered the documents on record, analyzed the facts and circumstances in this case. The order passed by the Ld. Pr. CIT u/s. 263 of the Act was on the fact that the assessee had sold three different properties which were situated at Bodri at Bilaspur and that all these properties were within the Bilaspur Municipality and therefore, the lands sold were urban land rather than agricultural land as claimed by the assessee and qualifies as capital asset u/s.2(14) of the Act. That since the A.O had failed to make enquiry regarding these facts, there has been under-assessment of income to the tune of Rs.65,68,200/- causing thereby under levy of tax, surcharge and cess of Rs.14,80,974/- in addition to the applicable statutory interest. Therefore, such order passed by the A.O is erroneous in so far it was prejudicial to the interest of the revenue.

9. Coming to the argument of the Ld. Counsel for the assessee that the order passed u/s. 263 of the Act was without any reasoning, is not correct and is absolutely baseless for the reason that the Ld. Pr. CIT in his order passed u/s. 263 of the Act had clearly brought out areas in which the A.O had failed to conduct necessary enquiry i.e. there has been transaction pertains to the capital gain which the A.O had failed to make necessary

enquiry and verification. The A.O had restricted the assessment order only to the addition of cash deposits, however, had failed to look into the land transactions which falls within the municipal limits of Bilaspur and, were therefore, in the nature of capital asset u/s. 2 (14) of the Act. The Ld. Pr. CIT had also brought out in his order that as per the gazette notification issued by Chhattisgarh Municipal Corporation Act, 1956, the boundary of Municipal Corporation of Bilaspur was extended which therefore fall within the limits of Municipal Corporation of Bilaspur. Therefore, there was no ambiguity in the findings of the Pr. CIT while passing order u/s. 263 of the Act and he has gathered all the details based on which he had arrived at a particular decision. That since the A.O had not inquired in the aspect of capital gain, therefore, there has been under-assessment of income of Rs.65,68,200/- causing thereby under levy of taxes, surcharge and cess of Rs.14,80,974/- in addition to the applicable statutory interest.

10. That on perusal of the entire assessment order, there is no whisper regarding any enquiry conducted with regard to the properties sale transaction by the assessee. The A.O has restricted his order only to the extent of cash deposits. However, there is no enquiry nor any reasoning emanating from his order on the issue of capital gain pertained to the sale transaction conducted by the assessee. That going through the entire assessment order, it is clear that such assessment has been done in a

summary manner accepting the return income as well as the reply of the assessee. That on plain reading of Section 263 of the Act a/w. Explanation-2 of the said provision of the Act, since the assessment order has been passed without making inquiries or verification and the order is passed allowing relief without inquiring into the claim and also considering the deeming nature in Explanation-2, the assessment order, therefore, is erroneous in so far it is prejudicial to the interest of the revenue.

11. In the cases of **Rampyari Devi Saraogi Vs. Commissioner of Income-Tax, West Bengal, Calcutta, 67 ITR 84 (SC)** and **Smt. Tara Devi Aggarwal v. Commissioner of Income tax, West Bengal, 88 ITR 323 (SC)**, the Hon'ble Supreme Court upheld the Commissioners (CIT)'s revisional orders passed u/s. 263 of the Act where the A.O accepted the returned income without making any proper inquiry. The Hon'ble Apex Court held that the assessment order passed without any enquiry results in loss of revenue and makes the order erroneous and prejudicial to the interest of the revenue. In the case of **Pr. CIT Vs. Paville Projects Pvt. Ltd. (2023) 453 ITR 447 (SC)**, the Hon'ble Supreme Court set-aside the High Court judgment and restored the order of the Commissioner of Income Tax u/s. 263 of the Act. The Hon'ble Apex Court found that the A.O's original assessment order accepting the substantial deduction as "cost of improvement" without proper application of the relevant legal

provision was both erroneous and prejudicial to the interest of the revenue. In the aforesaid judgment, on perusal of the assessment order and relying on the judgment passed in the case of **Malabar Industrial Co. Ltd. Vs. CIT (2000) 243 ITR 83 (SC)**, it was held by the Hon'ble Apex Court that the order passed by the A.O was erroneous as well as prejudicial to the interest of the revenue and thus, the Hon'ble High Court had committed a very serious error in setting aside the order passed by the Commissioner of Income Tax u/s.263 of the Act. With the above observations, the Hon'ble Apex Court allowed the appeal and set-aside the impugned order passed by the Hon'ble High Court restoring the order passed by the Commissioner of Income Tax in exercise of powers u/s. 263 of the Act.

12. Reverting to the facts of the present case, the Pr. CIT in the order passed u/s. 263 of the Act has clearly made a case that there has been under assessment in the case of the assessee and subsequent under levy of tax a/w. applicable interest. However, these areas have neither been enquired into nor verified by the A.O during the assessment proceedings and the entire assessment order is silent on these aspects.

13. Considering the aforesaid examination of the facts on record as well as legal spectrum enshrined in the tax law jurisprudence as emanated from the aforesaid judicial pronouncements, we are of the considered view

that the Pr. CIT is correct in passing order u/s.263 of the Act holding the assessment order to be erroneous in so far it is prejudicial to the interest of the revenue. The order passed by the Pr. CIT u/s.263 of the Act is upheld.

14. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 14th November, 2025.

Sd/-
R.K PANDA
(VICE PRESIDENT)

Sd/-
PARTHA SARATHI CHAUDHURY
(JUDICIAL MEMBER)

रायपुर/ RAIPUR ; दिनांक / Dated : 14th November, 2025.
SB, Sr. PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच,
रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.