

**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. 38/Asr/2025**  
Assessment Year: 2019-20

Pirtpal Singh Brar  
Booth No. 101, New  
Grain Market, Muktsar  
Punjab 152026

[PAN: CUAPS 9643F]  
**(Appellant)**

Vs.

Income Tax Officer,  
Ward -2(2), Muktsar

**(Respondent)**

Appellant by : Sh. Rohit Kapoor, Adv. &  
Sh. V.S. Aggarwal, ITP  
Respondent by : Sh. Charan Dass, Sr. D. R.  
Date of Hearing : 21.08.2025  
Date of Pronouncement : 18.11.2025

**ORDER**

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

This appeal is filed by the assessee against the order of the ld. CIT (A) NFAC, Delhi dated 29.11.2024 passed u/s 250 of the Income Tax Act, 1961 which has emanated from the order of the AO, NFAC, Delhi passed u/s 147 r.w.s. 144 of the Act, 1961 dated 04.03.2024.

2. The assessee has taken four grounds of appeal in Form No. 36 and all grounds relates to a single issue that the ld. CIT(A) being the first appellate authority has dismissed the appeal refusing to admit the appeal for hearing on merits of the case in absence of any *advance tax* being paid, coupled with the fact that no return of income has been filed by the assessee thereby attracting the provisions of *section 249(4)(b) of the Act*. The contention of the assessee is that the ld. first appellate authority should have allowed an opportunity of hearing to explain the non-payment of advance tax while invoking the provisions of section 249(4)(b).

3. The assessee further contended that he has no obligation to pay advance tax u/s 208 because the assessee is an agriculturist and the income derived by him from agricultural activities are exempt from taxation. The assessee further requested for taking up an additional ground of appeal being a legal ground in view of the judgment of the Hon'ble Supreme Court in the case of *NTPC v. CIT reported in 229 ITR 383*.

4. The legal ground relates to the fact that in the instant case, notice u/s 148 has been issued by the jurisdictional Assessing Officer only on the *income tax portal* and the notice has never been issued and served on the assessee on the registered e-mail id.

5. In course of hearing, the Id. AR of the assessee submitted a short paper book containing various documents along with a computation of income declaring taxable income at Nil.

6. Brief facts emerging from records are that on the basis of information gathered by the AO from the *ITBA Insight Portal*, the assessee has made financial transactions regarding purchase of foreign currency amounting to *Rs.28.56 lakhs* from one (*Supreme Securities Ltd.*). Proceedings has been initiated vide notice u/s 148 dated 29.03.2023 (*as per procedure*) and subsequent notice has been issued calling for particulars and information u/s 142(1) of the Act regarding explanation and source of purchase of foreign currency. In absence of any compliance to such notices and in absence of any documentary evidences being filed the assessment was completed u/s 144 (ex-parte) on a total income of *Rs.28,56,770/- u/s 69 of the Act*.

7. The matter carried in appeal before the Id. first appellate authority has been dismissed by the Id. CIT(A) without admitting the appeal for hearing on merits as per provisions of section 249(4)(b) of the Act in a case where no return has been filed by the assessee and no advance tax has been paid by observing as follows:

*“3.5. The appellant has offered 'Not Applicable comments at sl. No. 9 of Form-35 and the appellant failed to made payment of amount equal to the advance tax which was due on Its income. It is, therefore, clear that information, given at sl. no. 9 of Form-35 is not correct and the appellant has not made payment of amount equal to the advance tax which was due*

*on its income. The appellant has also not requested for exemption from operation of the provisions of clause (b) of sub-section (4) of section 249 of the Act.”*

8. Now, the assessee is in appeal before the Tribunal on the grounds contained in the memorandum of appeal. Referring to the paper book filed along with an application for admission of additional evidence under Rule 29 of ITAT Rules, 1963, the Id. AR submitted that agricultural income on sale of agricultural produce has been received from one *Sohan Lal Vikas Chhabra*, (*ledger account of the commission agent placed in paper book page no. 11*). Referring to the ledger account, he explained that the sale proceeds has been received through bank channel on 01.05.2018, 15.05.2018 and again 17.11.2018 totaling to Rs.15 lakhs (*5 lakhs on each occasions*) which has been cleared through the assessee's bank account in *Central Bank of India* (*placed in paper book page no. 2 to 10*) and it is from the said bank account, payments has been transferred *through RTGS* for purchase of foreign exchange from *Supreme Securities Ltd*. The transactions of inward and outward movement of funds are clearly reflected in the bank statements which are all matching with the particulars contained in the ledger account furnished by the commission agent *S.L. Vikas Chhabra*.

9. He further pointed out that the purchase of foreign exchange currency amounts to Rs.12,54,490/- only and not Rs.28.56,770/- (*as wrongly stated by the AO in the*

*assessment order*). He further drew our attention to the documents relating to foreign exchange transactions with *Supreme Securities Ltd.* (placed in paper book page nos. 12 to 21) to reconfirm the quantum of transactions actually taken place. He further referred to property documents and the documents relating to the agricultural land holdings (contained in paper book page no. 111 to 125) to submit that the assessee and his family members are holding agricultural lands measuring 57.5 acres, on which cultivation takes place, to prove the genuineness of agricultural income.

10. He further argued on the legal aspect of the matter and he pointed out that in the instant case, notices u/148 was never served on the registered e-mail id of the assessee. He submitted that even the notice u/s 148A(b) has not served on the registered e-mail id and has filed the screenshots to point out that the e-mail id has been left vacant in respect of notice u/s 148A(b) as well as in respect of notice issued u/s 148, even though the primary mail id of the assessee is [gurunanak037@gmail.com](mailto:gurunanak037@gmail.com), and the said mail is very much available in the portal, since it was last updated on 27.10.2021, which means that the said e-mail id was very much available with the Assessing Officer on the date of issue of notice *u/s 148* but for reasons unknown, no notice has been issued in the said e-mail id.

11. On this issue, he relied on the judgment of Hon'ble Allahabad High Court in the case of *Grs Hotel (P.) Ltd. v. Union of India* [2024] 160 taxmann.com 125 and

also on the decision of Delhi Tribunal in the case of *Brett Lee v. ACIT, International Taxation [2024] 163 taxmann.com 71* to argue that in absence of the notice not being properly issued and served on the assessee, the entire proceedings u/s 148 is absolutely void which also renders the subsequent proceedings invalid.

12. As such, he prays for deletion of the addition and quashing of the assessment order.

13. The ld. DR relied on the order of the ld. CIT(A) but he could not controvert the issues raised by the assessee regarding the non-issue and service of notice, in proper e-mail id.

14. We have heard the rival submissions and considered the materials on record and we find that the assessment proceedings has been commenced on the basis of incorrect findings regarding the quantum of foreign exchange purchase which actually is *Rs.12.54 lakhs* (and not 28.56 lakhs) as pointed out by the Assessing Officer. Moreover, it is also seen that the assessee is an agriculturist and has got no taxable income and on the basis of materials placed before us regarding possession of agricultural lands and receipts of agricultural produce supported by documentary evidences and entries in bank statement evidencing the purchase of foreign exchange, we have no hesitation in holding *that no advance tax is liable* to be paid by the assessee u/s 208 (r.w.s. 210) of the Act for the year under appeal and the ld. CIT(A)

was not legally justified in refusing to admit the appeal for adjudication on merits of the case and was not also justified in refusing to at least *offer an opportunity* to the assessee to explain the reasons for non-payment of advance tax, before dismissing the appeal.

15. We also find from the screenshots, that the notice u/s 148A and notice u/s 148 has not been issued or served in the e-mail id as available as primary e-mail in the PAN data of the assessee, which renders the entire reassessment proceedings technically invalid.

16. However, considering the factual aspects of the matter, we find that none of these documentary evidences regarding possession of agricultural lands and bank statement and commission agent certificate has never been filed or produced before the lower authorities neither before the Assessing Officer nor before the Id. CIT(A) and as a result, we are of the opinion that the judicial protocol demands that the Assessing Officer should have an opportunity to go through the entire papers and documents relied upon by the assessee for the purpose of verification and to determine its authenticity.

17. As such, in the interest of justice, we set aside the matter back to the files of the Assessing Officer for fresh assessment after considering all the documentary evidences furnished before us and we also direct the assessee to file all the

documentary evidences and submissions and explanations in contention of his case and to explain the source of the investments made for purchase of foreign currency.

18. Since, we have set aside the matter back to the files of the AO for fresh assessment, the legal grounds taken by the assessee regarding the issue of notice u/s 148A and 148 are not adjudicated by us.

19. However, we do not express any opinion on the merits of the case and all legal issues are left open.

20. The assessee will be allowed reasonable opportunity of being heard.

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

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 18.11.2025.

**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