

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A' NEW DELHI

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

ITA No. 3563/DEL/2025 (AYR 2020-21)

PRAHLAD SINGH,
1455/31, GALLI NO. 2, WARD NO. 31,
PRAGATI NAGAR,
SONEPAT, HARYANA-131001
(PAN: CRHPS8742R)
(APPELLANT) VS. PCIT, ROHTAK
AAYAKAR BHAWAN
OPP. MANSAROVAR
PARK, ROHTAK
HARYANA-124001
(RESPONDENT)

Assessee by : S/Shri Rahul Agarwal & Rajesh K. Agarwal, Advocates
Revenue by : Shri Jitender Singh, CIT(DR)

Date of Hearing	5.1.2026
Date of Pronouncement	9.1.2026

ORDER

PER MAHAVIR SINGH, VP:

This appeal by the assessee is arising out of the revision order passed by the Ld. PCIT, Rohtak u/s. 263 of the Income Tax Act, 1961 (hereinafter referred the "Act") vide his order dated 25.3.2025 for the assessment year 2020-21.

2. For this, assessee has raised the following effective grounds :

1. That on the facts and circumstances of the case, the provisions of law, the order passed by the Ld. PCIT under section 263 of the Act is bad both in the eyes of law and on facts.
2. That on the facts and circumstances of the case, the Ld. PCIT, Rohtak has erred, both on facts and in law, in

setting aside the order passed by the AO u/s. 143(3) without appreciating the fact that the assessee had attached all the evidentiary documents during the assessment proceedings which were not doubted or countered by the AO in any manner.

3. That the initiation of proceedings by PCIT are irregular and deserve to be quashed at the instance as the provisions invoked by the PCIT are not at all applicable to the case of the assessee. The PCIT has quoted both sections 68 as well as 69A in the first notice under the proceedings and given direction to the AO vide the final order to consider the taxability of income under the provisions of Section 69A, which is not applicable on the given facts and circumstances of the case.
4. That the Ld. PCIT has erred in setting aside order of the AO to a limited extent which is an impossibility and cannot be justified without giving the power to AO to treat the return of income filed by assesee as is.

3. Brief facts of the case are that the assessee e-filed his return of income for the relevant assessment year 2020-21 on 29.8.2020 declaring total income of Rs.1,48,050/- including net agricultural income of Rs.34,01,132/-. During the course of assessment proceedings, the AO required the assessee to explain and justify the earning of agricultural income for the year under consideration. AO issued show cause notice u/s. 144 of the Act requiring the assessee show cause as to why sum of Rs.

34,01,132/- being declared as net agricultural income in the income tax return filed u/s. 139(1) of the Act should not be treated as income from other sources and added to the returned income of the assessee. The compliance was to be made by 09.03.2022. The AO noted that no plausible explanation was submitted with the supporting documentary evidences which substantiate holding of land and earning of agricultural income. Subsequently, again the AO issued show cause notice enclosing therewith draft assessment order requesting the assessee to show cause as to why assessment in his case should not be finalized as per draft assessment order treating the agricultural income of Rs. 34,01,132/- as income from other sources issued on 19.03.2022. Again the show cause was issued on 18.8.2022. Compliance was made by the assessee by uploading the information in the shape of some bills and land record entries with jamabandi and khasra girdawri on 21.3.2022. The AO noted that no plausible explanation with supporting evidence is being provided to substantiate holding of land and earning agricultural income and therefore, the net amount declared as net agricultural income of Rs. 34,01,132/- was added in the hands of the assessee. Aggrieved, assessee has filed the appeal before the Ld. CIT(A). However, in the meantime, the PCIT, Rohtak issued show cause notice on 12.3.2025 as to why the assessment

order passed u/s. 143(3) read with section 144B of the Act for the relevant assessment year 2020-21 dated 9.9.2022 should not be revised as the AO failed to apply the correct provisions of section 69A of the Act in regard to unsubstantiated agricultural income added by the AO as income from other sources. The Ld. PCIT after considering the case records, finally held the assessment order as erroneous vide para no. 6 and 8 as under:-

“6. In view of above facts and in my considered opinion, AO has passed the assessment order without making proper inquiries or verification in respect of agricultural income, which should have been made and has made an incorrect assessment of facts and incorrect application of law, which makes the assessment order erroneous. Consequently, application of incorrect provisions of law made the assessment order prejudicial to be interest of revenue as revenue has lost tax lawfully chargeable @60% u/s. 115BB in respect of special income u/s. 69A of the Income Tax Act against the normal tax rate charged by the Assessing Officer. Hence, by invoking the provisions of section 263 of the Income Tax Act, 1961, the order passed by the Assessing Officer shall be revised as the order is passed without making inquiries or verification which should have been made.

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8. Keeping in view facts and circumstances of the case as discussed above, it is observed that the AO had passed the order dated 09.09.2022 in casual manner without due diligence and without applying correct provisions of the Income Tax Act, 1961. Therefore, the assessment completed u/s. 143(3) r.w.s. 144B of the Act is erroneous in so far as it is prejudicial to the interest of the revenue in terms of provisions of section 263 of the Act, especially in view of Explanation 2 inserted by the Finance Act, 2015 w.e.f. 01.06.2015. Accordingly, by exercise of power conferred u/s. 263 of the Income Tax Act, 1961, the assessment order passed by the above extent with the direction to pass an order afresh after conducting required enquiries and

verification, in accordance with law, keeping in view of the observations made above and after affording reasonable opportunity of being heard to the assessee.”

4. Aggrieved, now the assessee is in appeal before the tribunal.
5. We have heard the rival contentions and gone through the facts and circumstances of the case. The only short point for our adjudication is whether the agricultural income declared by the assessee and assessed by the AO as income from other sources and taxed at normal rates attracts the provisions of section 69A of the Act and is liable to tax at higher rate of tax @60% or not. In the given facts and circumstances of the case, admittedly the assessee is having 28 acres of agricultural land as per the jamabandi which is enclosed in assessee's paper book pages 57-64 and land taken on lease which documents are enclosed at page no. 71-75 of the assessee's paper book. The assessee has also enclosed copy of registered Intekaal, purchases made in the shape of pesticides, seeds and also sale proceeds of the agricultural crop in Form . J for the financial year 2018-19 and for the financial year 2020-21 and even for the relevant financial year 2019-20 relevant to assessment year 2020-21. We noted that these documents were filed before the AO and this fact emanating from the assessment order whereupon the assessee submitted these documents by way of various evidences signifying the agricultural income in the hands of the assessee including but not limited to Form-J as well as land holding Card issued by

the Government of Haryana in the shape of 'Meri Fasal Mera Byora'. After examining these documents, the AO assessed the income as income from other sources and taxed under regular provisions instead of applying the provisions of section 69A read with section 115BBE of the Act. We noted that the assessee is able to file all the documentary evidences before the PCIT and whether the assessee's agricultural income can be treated as income from other sources or not, this is a highly debatable issue and for this the revision proceedings u/s. 263 of the Act cannot be resorted to. Even otherwise, the assessee has preferred the appeal against the addition on the very same issue which is pending before the Ld. CIT(A) as stated by the Ld. Counsel for the assessee at Bar. In our view the PCIT while assuming jurisdiction u/s. 263 of the Act has to satisfy the twin conditions i.e. the order passed by the AO is erroneous as well as prejudicial to the interest of revenue. But Ld. PCIT could not point out any error so far as to hold the assessment order as erroneous. Once out of the twin conditions, one condition fails, the revision order also fails. In our view and in view of the facts noted above, we are of the view that the AO has taken one of the plausible view as per law, hence, we do not want to interfere with the view taken by the Assessing Officer and accordingly, we quash the revision order passed by the Ld. PCIT u/s. 263 of the Act.

6. In the result, the appeal of the assessee is allowed in the above very terms.

Order pronounced in the Open Court on 9.01.2026.

Sd/-

**(AMITABH SHUKLA)
ACCOUNTANT MEMBER**

Sd/-

**(MAHAVIR SINGH)
VICE PRESIDENT**

SRBhatnagar

Date: 9-1-2026

Copy forwarded to: -

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

Assistant Registrar, ITAT,
Delhi Benches