

IN THE INCOME TAX APPELLATE TRIBUNAL
“DB” BENCH, AMRITSAR

VIRTUAL HEARING

BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND
SHRI UDAYAN DASGUPTA, JM

आयकर अपील सं. / ITA No.36/ASR/2021
(निर्धारण वर्ष / Assessment Year: 2011-12)

Late Shri Sucha Singh (Through L/H Shri Ranjith Singh) C/o V.P. Vijh & Co. (CA) 1 st & 2 nd Floor, K.K. Tower Opp. Circuit House, Jalandhar City Punjab – 144001	बनाम/ Vs.	Pr. CIT-1 Central Revenue Building, Jalandhar, Punjab - 144001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AXAPS-9513-K		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Sandeep Vijh (CA) – Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Farhat Khan (Ld. CIT) - DR

सुनवाईकीतारीख/ Date of Hearing	:	02-02-2026
घोषणाकीतारीख / Date of Pronouncement	:	11-02-2026

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. By way of this appeal, the assessee assails invocation of revisionary jurisdiction u/s 263 by Ld. Pr. Commissioner of Income Tax, Jalandhar-1 (Pr. CIT) for the Assessment Year (AY) 2011-12 vide impugned order dated 23-03-2021 proposing revision of an

assessment as framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s. 147 of the Act on 25-12-2018.

2. The Ld. AR advanced arguments supporting the assessment order and made out a case of one of the possible views as taken by Ld. AO during the course of regular assessment proceedings. The Ld. AR contended that sufficient explanations and documents were already furnished by the assessee during the course of regular assessment proceedings. It was further contended that reassessment proceedings itself was bad in law as borne out of recorded reasons. The Ld. AR filed written submissions and assailed the impugned order on various legal grounds to challenge the impugned revision of the order. The Ld. CIT-DR, on the other hand, advanced arguments supporting the impugned revisionary order. Having heard rival submissions and upon perusal of case records, the appeal is disposed-off as under.

3. From the case records, it emerges that the assessee's case was reopened and notice u/s 148 was issued to the assessee's legal heir. The same was on the ground that the deceased assessee did not file regular return of income whereas it purchased an immoveable property for Rs.76.50 Lacs. To verify the sources of investment, the case was reopened. A return of income was filed in response to notice u/s 148 reflecting property / business income. Notices u/s 142(1) were issued and the case was duly discussed with the legal heir of the assessee. After due consideration, Ld. AO accepted the returned income vide assessment order dated 25-12-2018. This order was subjected to revision u/s 263 wherein it was alleged that no plausible explanation

was furnished by the assessee on the investment so made in the immovable property. The assessment was framed out without carrying out necessary verification and accordingly, the assessee was show-caused. The assessee opposed the same, inter-alia, on the ground that the reassessment proceedings itself was bad-in-law since correct PAN of the deceased assessee was BJAPS1985G whereas reassessment proceedings as well as recorded reasons pertained to PAN AXAPS9513K. The reassessment proceedings were, therefore, bad-in-law since the same did not pertain to the person in whose hands reassessment proceedings were intended to be initiated. No enquiry was done by Ld. AO to support the recorded reason that the property was purchased by the assessee and the copy of purchase deed was never available with Ld. AO to support the allegation of escapement of income. There was no material to record to make belief of escapement of income. The reassessment was initiated on mere borrowed satisfaction and therefore, the order could not be subjected to revision u/s 263. The assessee denied having undertaken any such transaction. This being so, the revisional jurisdiction u/s 263 could not have been invoked by Ld. Pr. CIT. The Ld. AO adopted one of the courses permissible in law and therefore, the order could not be said to be erroneous. However, Ld. Pr. CIT observed that the flagged issue would require verification and therefore, the assessment was set aside to Ld. AO for fresh assessment. Aggrieved, the assessee is in further appeal before us.

4. From the facts, it emerges that the deceased assessee did not file regular return of income. To verify the investment for Rs.76.50 Lacs in certain immovable property which was based on certain AIR information, a notice u/s 148 was issued and the assessee's legal heir Shri Ranjit Singh filed return of income. The assessee left for heavenly above on 25-10-2017. The copy of recorded reasons dated 29-03-2018 has been placed in paper book on Page Nos.283 and 284. It could be seen that the reopening was on the allegation that the deceased assessee had made investments in certain immovable property. Prior to recording the reasons, to verify AIR information, a notice u/s 133(6) was issued by Ld. AO to the Sub-Registrar, Jalandhar on 11-01-2018, inter-alia, requiring the said authority to supply a copy of the registration deed. A confirmation was also requested as to whether the assessee purchased any other property during 01-04-2010 to 31-03-2012. Apparently, the said information was not received by Ld. AO from the said authority. Therefore, the required information was again called for by Ld. AO vide reminder letter dated 16-04-2018 which is also placed on record. In the meanwhile, reasons for reopening have been recorded on 29-03-2018. This fact alone would lead to a conclusion that the said information as called for by Ld. AO from the Sub-Registrar was not in the possession of Ld. AO at the time of recording of reopening reasons and there was no material before Ld. AO to corroborate or to establish the authenticity of AIR information. It is another fact that in AIR information (kept on record), the column 'name match' is a *probable match* only which would indicate that the AIR

information may or may not pertain to the assessee. On these facts, it could be concluded that though the reasons of escapement of income were recorded by Ld. AO on 29-03-2018, the relevant material forming such belief was never in the possession of Ld. AO till that date. In fact, the copy of any purchase deed showing alleged investment by the assessee was never provided to the assessee during any stage of the proceedings. Pertinently, this issue has also been flagged by the legal heir in consequential proceedings. It could be seen that consequent to revisionary order u/s 263, another assessment has been framed u/s 143(3) r.w.s. 263 on 31-03-2022 wherein on Page 10, Ld. AO, while disposing-off assessee's objections to reopening, has observed as under: -

It is pertinent to mention here that notice (s) u/s 133(6) of the Income Tax Act, 1961 were issued from time to time to the Sub Registrar concerned as per records, however purchase deed has not been received from them till date. It is mention that the Sub Registrar has never communicated to this office to that effect that the purchased deed does not exist at all. They had asked for date of transaction only and the same has been made available to them for necessary action at their end. It is also mentioned that it is not a case of mistaken identity as per PAN database., Your father Sh. Sucha (deceased assessee) has been allotted two PAN (AXAPS9513K on 01.07.2004 and BJAPS1985G on 22.12.2006) and the AIR informaiton is available against his former PAN. Aadhar No. is not linked to either of the PANs, however, both the PANs belong to your father as per our PAN database / records.

It is thus crystal clear that at the time of recording reasons for reopening, there was no tangible material available with Ld. AO to substantiate the allegation of escapement of income. This being so, the

reassessment proceedings, in our considered opinion, stood vitiated and therefore, the same could not be subjected to any further revision. The assessee succeeds on this first and foremost legal ground alone.

5. Another pertinent reason is that no independent findings have been rendered by Ld. Pr. CIT on the various issues as flagged by the assessee in response to show-cause notices. The Hon'ble Delhi High Court in the case of **Pr. CIT vs Delhi Airport Metro Express Pvt Ltd. 398 ITR 8** held that if Pr. CIT was of the view that AO did not undertake any enquiry, it become incumbent on Pr. CIT to conduct such enquiry. No such enquiry emanates from impugned revisionary order. Also, the same court in the case of **ITO vs. DG Housing Projects Ltd. (343 ITR 329)** held that AO is both an investigator and an adjudicator. A distinction has to be drawn between a case where the AO has not conducted any enquiry or examined any evidence whatsoever ("lack of inquiry") from one (i) where there is enquiry but the findings are erroneous; and (ii) where there is failure to make proper or full verification or enquiry ("inadequate inquiry"). The fact that the assessment order does not give any reasons for allowing the claim is not by itself indicative of the fact that the AO has not applied his mind on the issue. All the circumstances have to be seen. A case of lack of enquiry would by itself render the order being erroneous and prejudicial to the interest of the revenue. In a case where there is inquiry by the AO, even if inadequate, the CIT would not be entitled to revise u/s 263 on the ground that he has a different opinion in the matter. Also, in a case where the AO has formed a wrong opinion or

finding on merits, the CIT has to come to the conclusion and himself decide that the order is erroneous, by conducting necessary enquiry before passing the Sec. 263 order. The CIT is entitled to collect new material to show how the order of the AO is erroneous. The CIT cannot remand the matter to the AO for further enquiries or to decide whether the findings recorded are erroneous without a finding that the order is erroneous and how that is so. A mere remand to the AO implies that the CIT has not decided whether the order is erroneous but has directed the AO to decide the aspect which is not permissible. On facts, as the CIT had doubts about the valuation and sale consideration received, he ought to have examined the said aspect himself and given a finding on the merits on how the consideration was understated. The ratio of this decision squarely applies to the facts of present case before us and duly supports the case of the assessee.

6. Considering the above facts and settled legal position, the impugned revisionary order u/s 263 could not be sustained on both the primary legal grounds. We order so. The original assessment order as framed by Ld. AO on 25-12-2018 stand restored. The other grounds as urged by Ld. AR has been rendered mere academic in nature and we see no reason to deal with the same.

7. The appeal of the assessee stand allowed.

*Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules,
1963.*

-Sd-
(UDAYAN DAS GUPTA)
JUDICIAL MEMBER

-Sd-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated:11.02.2026

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR