

IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHANDIGARH

PHYSICAL HEARING

**BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT
AND
HON’BLE SHRI KRINWANT SAHAY, AM**

**आयकरअपीलसं./ ITA No.788/CHANDI/2025
(निर्धारणवर्ष / Assessment Year: 2012-13)**

Harbhol Singh H. No. 863, Village – Sheron, Suman Road, Sunam District : Sangrur Punjab - 148028	बनाम/ Vs.	ITO Aayakar Bhawan, Income Tax Officer, Ward Sunam, Sangrur Punjab - 148028
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. CSSPS-9948-F		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Deepinder Singh (Advocate)
प्रत्यर्थीकीओरसे/ Respondent by	:	Sh. Vivek Vardhan (Addl. CIT) Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	26-02-2026
घोषणाकीतारीख / Date of Pronouncement	:	19-03-2026

आदेश / O R D E R

Krinwant Sahay (Accountant Member)

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/ NFAC, Delhi dt. 16/05/2025 for the Assessment Year 2012-13.

In the present appeal Assessee raised the following grounds:

2. GROUND OF APPEAL:

1. That the Ld. Commissioner of Income Tax (Appeals) has erred in law as well as on facts in upholding the order passed by the Income Tax Officer, Ward-Sunam,

that the notice U/S 148 of the Income Tax Act, 1961, was issued by the Ld. A O is without any information with the A.O., he had only AIR information of cash deposit of Rs. 16,50,000-00 and secondly the Income Tax officer had mentioned in the order that the appellant failed to file any reply in response to the notices, ignoring the copies of reply filed, which are not acceptable, as such the addition upheld is illegal, arbitrary and unjustified.

2. That the Ld. Commissioner of Income Tax (Appeals) has erred in law as well as on facts in upholding the addition of Rs. 65,25,000-00 made on account of sale of agricultural land, by treating the agricultural land as CAPITAL ASSET ignoring the fact that the said land is pure agricultural land and is out of the limits of Municipal area and in this regards, copy of the certificate issued by the TEHSILDAR regarding the status of land as agricultural land. It is also beyond the limit of Municipal area. The certificate had been provided which was not accepted by the A.O. merely stating that the land is beyond 2 Kilometres, of the Municipal area as such the addition was made.

3. That the Ld. Commissioner of Income Tax (Appeals) has erred in law as well as on facts in upholding the addition of Rs. 16,50,000/- on account of depositing the Cash in bank account by not verifying that the fact that the cash is deposited out of sale proceeds of land and regarding the proof of source of cash, the fact is mentioned in the registry of land WHARE in it is mentioned that the amount of registry is received at home, which are not acceptable and as such the addition upheld is illegal, arbitrary and unjustified.

4. That the Ld. Commissioner of Income Tax (Appeals) has erred in law as well as on facts in upholding the addition of Rs. 65,25,000/- on account of sale of agriculture land at village Sheron Khewatdar, Sunam, ignoring the fact that on sale of agriculture land is exempted and further more if the same is treated as Capital Asset than no cost index had been applied, which are not acceptable and as such the addition upheld is illegal, arbitrary and unjustified.

5. That the application under Rule 46A of the Income Tax Rules, 1962, regarding production of additional evidence may please be entertained.

6. That the notice of Demand may kindly be stayed till disposal of appeal.

7. That the order of the Ld. Commissioner of Income Tax (Appeals) is erroneous, arbitrary, opposed to law and facts of the case and is, thus, untenable.

8. That the appellant craves leave to add, DELETE OR amend any ground of the appeal before the appeal is finally disposed of.

3. Briefly, the facts of the case are that the assessee is an individual who filed a return of income on 14.04.2019 declaring a total income of Rs. 4,120/- and agricultural income of Rs. 4,86,143/-. The case was reopened by issuing notice under section 148. The case was reopened based on information that the assessee sold land for Rs. 65,25,000/- at Sunam and made cash deposits of Rs. 16,50,000/- in a bank account with State Bank of India during the F.Y. 2011-12.

4. During the assessment proceedings, the AO issued several notices under sections 142(1) and 143(2), but the assessee failed to provide a plausible justification or documentary evidence regarding the source of cash deposits or the computation of capital gains. The AO observed that while the assessee submitted a certificate from the Tehsildar stating the land was outside municipal limits. But field enquiries by the Department's Inspector revealed the asset was located within less than 2 kms from the outer limit of the Sunam municipality. Consequently, the AO treated the land as a capital asset and, in the absence of evidence regarding the cost of acquisition or reinvestment, assessed the entire sale consideration of Rs. 65,25,000/- as Long Term Capital Gains. Additionally, the AO added Rs. 16,50,000/- as unexplained money under section 69A, noting that the cash deposits were made on 13.10.2011,

whereas the land sale occurred later on 08.12.2011. The total income was assessed at Rs. 81,79,120/- via an ex-parte order under section 144 r.w.s. 147 dated 23.12.2019.

5. Against the order of the AO the assessee went in appeal before the Ld. CIT(A), challenging the jurisdiction of the AO and the merits of the additions. The assessee contended that the land was agricultural and beyond municipal limits, supported by a Tehsildar's certificate. Regarding the cash deposits, the assessee argued they were sourced from an advance (Biana) received for the land sale. However, the Ld. CIT(A) dismissed the appeal, holding that the assessee failed to controvert the AO's finding that the land was situated within 2 kms of the municipal limits. The Ld. CIT(A) further noted that no evidence was provided to substantiate that the cash deposits were linked to the land sale advance. The Ld. CIT(A) also upheld the validity of the reopening under section 147 and concluded that the AO had provided reasonable opportunity to the assessee.

6. Against the order of the Ld. CIT(A) the assessee preferred in appeal before the Tribunal.

7. During the course of hearing, the Ld. AR for the assessee submitted that the lower authorities ignored vital evidence, including the Tehsildar's certificate which clearly shows the land as being outside municipal limits. It was argued that the AO relied on a vague Inspector's report without providing the assessee a proper opportunity to cross-

examine or rebut the findings. The AR further contended that the cash deposit of Rs. 16,50,000/- was part of the "Biana" or advance money received for the land sale, as often practiced in rural transactions, and that the registry itself mentions the receipt of funds. The AR pleaded for the admission of additional evidence under Rule 46A to prove the agricultural nature of the land and the source of the cash.

8. Per contra, the Ld. DR, strongly supported the orders of the lower authorities. He argued that the assessee remained non-compliant during the initial assessment proceedings, leading to an ex-parte order.

9. We have heard the rival contentions of both the parties and perused the material available on record. The core of the dispute lies in the exact distance of the land from the municipal limits and the nexus between the cash deposits and the land sale. While the AO relied on an internal inquiry, the assessee relies on a certificate from the Tehsildar. We find that the technicalities of measuring the distance and the verification of the "Biana" receipt require a deeper factual verification which was hampered by the assessee's limited participation during the assessment stage. In the interest of substantial justice and to ensure that the correct income is taxed, we deem it fit to provide the assessee one final opportunity to present his case. Accordingly, the impugned order is set aside, and the matter is remanded back to the file of the Assessing Officer. The AO is directed to:

- Re-verify the distance of the land from the municipal limits in light of the Tehsildar's certificate and the assessee's additional evidences.
- Examine the claim of "Biana" (advance) regarding the cash deposits by verifying the sale agreement and the recitals in the registered deed.
- Apply the benefit of cost of acquisition if any and indexation if the land is ultimately found to be a capital asset.

The assessee is directed to cooperate fully with the AO and not seek unnecessary adjournments.

10. In the result, the appeal is allowed for statistical purposes.

Order pronounced on 19/03/2026

**-Sd-
(RAJPAL YADAV)
VICE PRESIDENT**

**-Sd-
(KRINWANT SAHAY)
ACCOUNTANT MEMBER**

AG/AS

Dated: 19-03-2026

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 CHANDIGARH