

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ “बी”, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH “B”, CHANDIGARH

HEARING THROUGH: HYBRID MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 779/Chd/ 2025
निर्धारण वर्ष / Assessment Year : 2021-22

Swaran Kaur Manakpur Kallar, Manauli, SAS Nagar Mohali-140306, Punjab	बनाम	The AO Ropar
स्थायीलेखासं. / PAN NO: COGPK0002N		
अपीलार्पी/Appellant		प्रत्यर्पी/Respondent

निर्धारिती की ओर से/Assessee by : Ms. Purminder Kaur, C.A
राजस्व की ओर से/ Revenue by : Dr. Ranjit Kaur, Addl. CIT, Sr. DR (Virtual Mode)

सुनवाई की तारीख/Date of Hearing : 07/01/2026
उद्घोषणा की तारीख/Date of Pronouncement : 08/01/2026

आदेश/Order

PER LALIET KUMAR, J.M:

This appeal filed by the assessee is directed against the order dated 03.12.2024 passed by the Ld. CIT(A)/ NFAC, Delhi for the Assessment Year 2021-22.

2. In the present appeal Assessee has raised the following grounds:

The Assessee had no malafide intention to be negligent to the hearing notice. She had sold the rural agricultural land which is 8 kms away from the municipal corporation limit to Lanchester group (Buyer). As per section 2(14) of the income tax act 1961, agricultural land situated in rural area is not treated as a capital asset.

Agricultural land situated beyond the jurisdiction of a municipality or cantonment board having a population of 10,000 or more is not treated as a capital asset if it does not fall within the following distances (to be measured aerially):

1. Up to 2 km from the local limits of the municipality or cantonment board, if the population of such municipality or cantonment board exceeds 10,000 but does not exceed 1,00,000.

2. Up to 6 km from the local limits of the municipality or cantonment board if the population of such municipality or cantonment board exceeds 1,00,000 but does not exceed 10,00,000.

3. Up to 8 km from the local limits of the municipality or cantonment board if the population of such municipality or cantonment board exceeds 10,00,000.

That out of the total cash deposits, the amount of Rs.10,00,000/- represents agricultural income earned by the appellant through cultivation activities. As per section 10(1) of the income tax act, agricultural income is exempt.

That the remaining sum of Rs.3,00,000/- is attributable to income earned from dairy farming, a common allied agricultural activity in rural areas, and the same is substantiated by details of livestock owned by the appellant and the sale of milk and dairy products. The Assessee was having an income more of than 8 % as per section 44AD so that entire amount should not be added as every business has day to day expenses so that she requests to please consider tax on taxable income rather than gross receipts.

So, requesting your good office to kindly pardon her. By knowing & accepting the facts that she was unaware of the act. Kindly do not impose any penalty on her.

3. Briefly stated, the assessee is an individual. The assessment for the year under consideration was completed ex-parte under section 144 of the Income-tax Act, 1961, wherein the Assessing Officer, *inter alia*, made additions on account of (i) treating the sale consideration of land as short-term capital gain, and (ii) treating the cash deposits in the bank account as income of the assessee.

4. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT(A). However, the Ld. CIT(A) dismissed the appeal in limine on the ground that despite issuance of several notices, the assessee failed to make compliance or file submissions and, therefore, it was presumed that the assessee was not interested in prosecuting the appeal. Consequently, all the grounds of appeal were dismissed without adjudication on merits.

5. The Ld.AR submitted that the Ld. CIT(A) has erred in law and on facts in dismissing the appeal for non-prosecution. It was submitted that the issues raised before the Ld. CIT(A) pertained to the taxability of the sale of rural agricultural land and the nature of cash deposits, which required adjudication on merits. It was contended that the Ld. CIT(A), being a statutory appellate authority, was duty-bound to pass a reasoned order in accordance with section 250(6) of the Act.

6. The Ld. DR, on the other hand, relied upon the orders of the lower authorities.

7. We have considered the rival submissions and perused the material available on record. We find that the Ld. CIT(A) has dismissed the appeal solely on the ground of non-appearance and non-filing of submissions by the assessee, without dealing with the grounds of appeal on merits. It is a settled position of law that the Ld. CIT(A) has no power to dismiss an appeal for non-prosecution. Section 250(6) of the Act mandates that the order of the Commissioner (Appeals) shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.

7.1 In the present case, the assessee had raised specific grounds before the Ld. CIT(A) regarding whether the land sold constituted a "capital asset" within the meaning of section 2(14) of the Act and whether the cash deposits represented taxable income or exempt receipts. These issues required examination on merits, even in the absence of the assessee.

7.2 The approach adopted by the Ld. CIT(A) in dismissing the appeal without adjudicating the issues raised before him is not in accordance with law and is contrary to the principles of natural justice.

7.3 In view of the above discussion, we are of the considered opinion that the impugned order passed by the Ld. CIT(A) cannot be sustained. Accordingly, the same is set aside, and the matter is restored to the file of the Ld. CIT(A) with a direction to adjudicate the appeal afresh on merits, after providing a reasonable opportunity of being heard to the assessee and in accordance with law.

7.4 We make it clear that we have not expressed any opinion on the merits of the issues involved, and the Ld. CIT(A) shall decide the same independently, uninfluenced by any observations made hereinabove.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 08/01/2026.

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)
लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

ललित कुमार
(LALIET KUMAR)
न्यायिक सदस्य/JUDICIAL MEMBER

AG

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकरअपीलीय आधिकरण, चंडीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar