

2026.PHHC.007999-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9038 of 2025 (O&M)

Date of Decision: 21.01.2026

Sakir Khan

..... Petitioner

Versus

State of Haryana and others

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI**

Present: Mr. Ashutosh Gupta, Advocate
Mr. Akram Hussain, Advocate
for the petitioner.

Ms. Mamta Singla Talwar, DAG., Haryana.

Mr. Ranvijay Singh, Sr. Standing Counsel
Mr. Vidul Kapoor, Jr. Standing Counsel
Ms. Nikita Garg, Jr. Standing Counsel
for respondent-Income Tax Department.

LISA GILL, J.

CM-4757-CWP of 2025.

For the reasons mentioned in the application as well as arguments addressed, leave to file and pursue this writ petition without registration as Advocate on Roll, is granted, subject to just exceptions.

Application is, accordingly, disposed of.

CWP No. 9038 of 2025

1. Prayer in this writ petition is for setting aside assessment order dated 30.09.2021, Annexure P-6, under Section 153A read with Section 144 of Income Tax Act, 1961 (for short 'Act 1961') issued by respondent No.2.
2. Learned counsel for petitioner submits that on 20.04.2019, petitioner received a sum of Rs.6,91,174/- from M/s Amir Trading Company, Punhana, a registered Commission Agent under the Haryana State Agriculture Marketing Board as consideration for crop sold by him. This amount was seized by the Static Surveillance Team No.3, Nuh during a vehicle search of petitioner. Seizure was conducted in view the Model Code of Conduct in force due to the Lok Sabha Elections scheduled to be held on 12.05.2019.
3. Petitioner aggrieved of the said seizure, filed an appeal before the District Level Grievance Redressal Committee (for short 'the Committee'). Opportunity of hearing was provided to petitioner. Petitioner appeared before the Committee on 13.05.2019 and provided 'J' Form worth Rs.6,91,174/- issued by the Commission Agent to substantiate his stand that this amount had been received by him as consideration for the crop sold to the Commission Agent in question. The amount, it is stated, was derived from agricultural activity in which petitioner was engaged Petitioner further explained that he was enroute to deposit this amount in his bank when the seizure was made from his vehicle by the Static Surveillance Team on 20.04.2019.
4. The Committee vide order dated 17.05.2019, came to the conclusion that transaction in question was genuine and there is no proof that recovered amount is to be used for election purposes. The amount was

directed to be released in favour of petitioner. However, as this amount was in custody of Income Tax Department, it was observed that the Department would proceed further as per Income Tax Laws and take a decision in accordance with law. Despite order dated 17.05.2019, the amount was not being released due to which petitioner filed CWP No. 32143 of 2024 seeking release of the amount in question. It is during pendency of this writ petition, it came to knowledge of petitioner that order dated 30.09.2021, Annexure P-6 had been passed.

5. Learned counsel for petitioner vehemently argues that no notice whatsoever was ever served upon petitioner before passing of assessment order dated 30.09.2021. Petitioner was totally unaware of any proceedings being conducted by respondents. It also came to light that notice under Section 142 (1) of Act 1961 had been issued to petitioner on 29.09.2021. The same was never received and in an absolutely illegal and arbitrary manner on the very next day i.e., on 30.09.2021, *ex parte* order under Section 153 A read with Section 144 of Act 1961 was passed. Learned counsel submits that this action was apparently taken in great haste in an illegal manner without adherence to letter of the law and principles of natural justice, as is reflected from reply dated 24.04.2025 filed on behalf of respondents wherein it is admitted that last day for concluding assessment was 30.09.2021, therefore assessment order was immediately passed on said date. It is reiterated that notice dated 29.09.2021 was in-fact never served upon petitioner. It is thus prayed that this writ petition be allowed.

6. Short reply dated 24.04.2025 of Mr. Pankaj Kansal, Assistant Commissioner of Income Tax, Central Circle-1, Faridabad, on behalf of respondent No.3 has been filed.

7. Learned counsel for respondents submit that this writ petition has been filed after considerable delay and that too without exhausting the alternate remedy of statutory appeal provided under the 1961 Act. Learned counsel for respondents further submit that after interception of this cash amount of Rs. 6,91,000/- on 20.04.2019, team of Income Tax (Investigation), Gurugram reached Police Station, Nuh on receipt of the information. Statement of petitioner was recorded on 21.04.2019, wherein petitioner admitted that this amount belongs to him having been earned from agricultural activity, however he could not produce any documentary evidence such as 'J' Form or Girdawari Certificate. Petitioner was afforded another opportunity to produce the 'J' Form on 22.04.2019, but he did not produce the said documentation. Therefore, action has been correctly taken. Dismissal of writ petition is sought.

8. We have heard learned counsel for the parties and have perused the file with their able assistance.

9. Seizure of amount of Rs.6,91,000/- from the vehicle of petitioner on 20.04.2019 is a matter of record as is the consistent stand of petitioner that this amount has been derived from agricultural activity. It is further a matter of record that petitioner produced the necessary 'J' Form before the Committee on 17.05.2019 which after taking in account the facts and circumstances specifically observed as under:-

“During the process of General Election Lok Sabha 2019, the Static Surveillance Team No. 3. Nuh seized an amount of

Rs. 6,91,000/- in cash while searching vehicle No. HR-93 3986 at Tauru Road, Nuh, from Sh. Sakir Khan S/o Jakir Khan, R/o Village Indana, Teh. Punhana, District Nuh on 20/4/2019. The duty Magistrate/Head Static Surveillance Team deposited the said amount to Treasury, Nuh on 20-04-2019 and the receipt of seized amount is provided to Sh. Sakir Khan from whom the amount is seized. He was also informed about the appeal procedure and Name/Designation of the officer heading the District Level Grievance Redressal Committee. This committee has given the opportunity of being heard to the effected person and a personal hearing is provided to him on 08-05-2019. Wherein, he has submitted that the said amount he obtained by selling crops grown on their agriculture land. The said crops were sold to M/s Amir Trading Company, Punhana, a commission agent under Haryana State Agriculture Marketing Board. They have also provided the 'J' Forms worth Rs. 691,174/- regarding this transaction. He wants to submit this amount to his Bank Account (No. 37043671448) at Nuh, and on the way Static Surveillance Team has seized this amount on 20-04-2019.

The committee heard the case in length and made an opinion that the amount in question is a property of Sh. Sakir Khan, which has come to his possession on selling of his crops. The whole transaction is seems to be genuine and there is no proof that the amount is to be used for election purpose and this committee order to release the amount infavour of its lawful owner. However, as this amount is in the custody of Income Tax Department so they may further proceed as per Income Tax Laws and take decision accordingly to handover the said amount to its owner.”

10. Learned counsel for respondents was unable to point out anything on record which would indicate that notice dated 29.09.2021, under Section 142(1) of Act 1961, had ever been served upon the petitioner.

Admittedly, assessment order was passed on the very next day i.e., 30.09.2021. Despite opportunity and pointed question, learned counsel for respondents was unable to bring on record anything to substantiate that this notice was ever served upon petitioner or that assessment order was also ever served upon petitioner. It is opposed to all probability and common-sense that once petitioner had produced the relevant 'J' Form before the Committee, he did/would not produce this form before the Income Tax Authorities, if called upon and given an opportunity. It is to be reiterated that the Committee had duly accepted the said 'J' form.

11. In the given facts and circumstances, assessment order dated 30.09.2021, under Section 153A read with Section 144 of Act 1961 is unsustainable, hence set aside. Matter is remanded to the Assessing Authority to consider the same afresh and decide the same in accordance with law after affording due opportunity of hearing to petitioner.

12. Writ petition is accordingly disposed of. Pending application(s), if any, stand(s), disposed of accordingly.

(LISA GILL)
JUDGE

(RAMESH CHANDER DIMRI)
JUDGE

21.01.2026
s.khan

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No