

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH; AMRITSAR (SMC)**

BEFORE SMT. DIVA SINGH, JUDICIAL MEMBER

I.T.A. No. 143 (Asr)/2016

Assessment Year: 2009-10

PAN: ARDPS2308H

Prem Chand Sharma Prop.
M/s Prem Karyana Store,
Kumar Mandi, Ferozepur.

(Appellant)

Vs. The Income Tax Officer
Ward-3 (2), Ferozpur.

(Respondent)

Appellant by: None
Respondent by: Sh. Rahul Dhawan, (D. R.)

Date of hearing: 19.04.2017
Date of pronouncement: 16/05/2017

ORDER

PER DIVA SINGH :

The present appeal has been filed by the assessee assailing the correctness of the order dated 07.01.2014 of CIT (A) Bathinda, pertaining to Asst. Year 2009-10 on the following grounds reproduced herein below.

“1. That the learned CIT (A) erred on facts and law in confirming the income of Rs. 8,67,360/- assessed by the Assessing Officer vide order u/s 144 as against returned filed by the assessee declaring the income of Rs. 1,43,210.

2. That Therefore learned CIT(A) erred on facts and law in rejecting the explanation of the assessee regarding source of cash deposited and amount advanced without passing a speaking order.

3. That the learned CIT (A) erred on facts and law in rejecting the request of the assessee regarding admission of additional evidence.

4. That the Appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off”.

2. At the time of hearing an adjournment application was placed on record on behalf of the Ld. AR pleading medical reasons. However since the appeal could be decided on the basis of material on record it was considered appropriate to reject application moved after hearing the Ld. Senior DR.

3. The relevant facts of the case are that the assessee in the year under consideration returned an income of Rs. 1,43,210/- by way of filing a return on 15.05.2009. In view of the fact that the assessee was found to have advanced a pronote of Rs. 1 lacs and advanced Rs. 4 lacs towards shop No. 112P, Bazar No.7, Ferozepur to Smt. Kantan Rani and also found to have deposited Rs. 2,09,000/- in cash on various dates in his bank account no. “10362010007960 maintained with Oriental Bank of Commerce, MLM Sr. Sec. School Branch, Ferozepur Cantt” accordingly he was required to explain the same. Since the assessee failed to appear before the Assessing Officer, the additions were made by an order u/s 144 of the Income Tax Act 1961.

4. In appeal before the First Appellate Authority the issue was considered and discussed in the following manner:

- “5. During the appellate proceedings, a perfunctory explanation was given to the effect that the appellant sold his agricultural land on 30th of July, 2007 for Rs. 4 lakhs, which amount was purported to be in circulation and income of the same amounting to Rs. 2,13,015/- was stated to have already been assessed in Assessment Year 2008-09. It was pleaded that some kind of set off be given to the appellant with regard to the availability of money pursuant to the sale of agricultural land.
6. The aforesaid explanation fails to satisfy the query regarding the sources of funds from which advances were made and deposits effected in the appellant's bank account. The appellant, clearly, doesn't seem to have any explanation for the allegations of undisclosed investment. In this view of the matter, the action of the Assessing Officer is confirmed and sustained”.

5. The Ld. Senior DR relied upon the conclusion drawn by the CIT (A) and vehemently argued that the order may be upheld as the assessee has failed to appear before the Assessing Officer and has made only general arguments before the Commissioner without supporting evidences.

6. I have heard the submission and perused the material available on record. I find on a reading of the assessment order and the impugned order that the tax authorities have failed to address what is the nature of the assessee's income. It is seen that the assessee has returned an income of Rs. 1,43,210 however the source of the same has not been addressed in the orders. The assessment proceedings were ex parte wherein the addition was made so presumably the occasion to consider the arguments on behalf of the assessee were not there but the facts relatable to the income disclosed also it is noticed have not been mentioned. The assessee it is seen has assailed the additions before the CIT(A) contending that the source of deposits and advances was sale of agricultural land sold for Rs. 4 lakhs and this amount was stated to be in circulation. It has also been argued that income of the same has already been assessed in Asst. Year 2008-09. In these circumstances, I am of the view that no doubt the onus was on the tax payer to support its case however the correctness of the assessee's claim either by calling for the record of earlier assessments from the Assessing Officer or by directing the assessee to place full facts with supporting evidences on record should have been ascertained by the Ld. CIT(A). It should not be ignored that in the developing socio rural and agrarian economy based population the marginal tax payers at times may not have adequate exposure to tax litigation and may bonafidely believe that mere mentioning of correct and true facts well known to him may be sufficient compliance of the law. It is for the tax authorities to ensure that the population is encouraged to be tax compliant by specifically informing the marginal tax payer to come up with supporting evidences. This limited exercise to go the extra mile for a citizen to my mind will go a long way to address the perceived callousness or high handedness of an otherwise diligent tax adjudicator, who at times due to over work or pre-occupation with high pressure cases

unknowingly may end up mishandling the tax payer by his brusque approach, thus unintentionally pushing him towards the arms of the dubious tax dodgers who thrive on the confusions; ignorances alienation and fears of the honest tax payers and thus, directly contribute to increasing the numbers of tax deviant population. "A stitch in time saves nine" is the apt and most appropriate proverb which appropriately sums up the needs and requirements of the tax administration which many a times is faced with the dilemma to proceed harshly with perceived obduracy. It may not be out of place to suggest that the tax department selects and appoints at the first level of interaction with the marginal tax payers persons who are sensitized to the fears and ignorances of the tax population and are trained to help and encourage them to be tax compliant. Keeping the long term aims of the State and its citizens as the central theme in administration said exercise to my mind is the need of the hour to address the grass root alienation of the economically marginalized citizens from the State.

6.1 Adverting to the facts of the present case it is noted that the claims put forth in good faith appear to be acceptable subject to supporting evidences and are capable of being demonstrated despite the lapse of time. Accordingly it is deemed appropriate to set aside the impugned order back to the file of Ld.CIT(A) with the direction to pass a speaking order in accordance with law permitting the assessee to place evidences in support of its claim.

6.2 It is hoped that the opportunity so provided to the assessee in good faith is not abused and is utilized by making full and proper compliance before the CIT(A). It is made clear that in the eventuality of abuse of the trust reposed, the Ld. CIT(A) would be at liberty to pass a speaking order in accordance with law on the basis of material placed available on record.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 16th May 2017

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER

/GP/Sr.PS/AG(CHD)

Copy of the order forwarded to:

1. The Assessee;
2. The ACIT,
3. The CIT(A),
4. The CIT,
5. The SR DR, I.T.A.T.,

True copy

By order