

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, "B", CHANDIGARH

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER &
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1361/CHD/2019

निर्धारण वर्ष / Assessment Year : 2009-10

Shri Tejinder Singh, S/o Sh Amritpal Singh, VPO Dhaula, Tehsil Tappa, Barnala	बनाम	The ITO, Barnala
स्थायी लेखा सं./PAN NO: CQPPS2212B		
अपीलार्थी/Appellant	,	प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Vibhore Garg, CA
राजस्व की ओर से/ Revenue by : Shri Dharam Vir, JCIT,
Sr.DR

सुनवाई की तारीख/Date of Hearing : 23.08.2023

उद्घोषणा की तारीख/Date of Pronouncement : 20.10.2023

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आदेश/Order

Per Sanjay Garg, Judicial Member:

This appeal has been preferred by the assessee against the order dated 15.07.2019 of the Ld. Commissioner of Income Tax (Appeals), Patiala [hereinafter referred to as 'CIT(A)'].

2. The Assessee has taken following grounds of appeal: -

1. That the impugned order is bad both on facts and law to the extent of additions upheld.
2. That the learned appellate authority has wrongly and illegally upheld the addition of Rs 6,54,300/- against the facts and material on record.
3. That the learned appellate authority has wrongly and illegally upheld the addition of Rs 5,00,000/- against the facts and material on record.
4. That the learned appellate authority has wrongly and illegally upheld the addition of Rs 16,00,000/- against the facts and material on record.
5. That the learned appellate authority has wrongly and illegally substantiated the protective addition of Rs 4,23,984/- made by the Ld A.O. against the facts and material on record.
6. That the appellant craves permission to add, amend, elucidate any ground of appeal at the time of hearing

3. **Ground No.1** is general in nature and does not need any specific adjudication.

4. **Vide Ground No.2** the Assessee has agitated the action of the Ld. CIT(A) in upholding the addition of Rs. 6,54,300/-

an account of unexplained cash credit in the bank account of the Assessee. The claim of the Assessee is that the aforesaid amount was deposited out of amount received on account of sale of agricultural produce. However, the Ld. CIT(A) rejected the contention of the Assessee observing that the 'J' Forms, which are the evidence of the sale of produce, were in the name of father of the Assessee namely Amritpal Singh. The plea of the Ld. counsel for the Assessee is that it is very normal in a joint family to collect or receive the amount of sale of crops for and on behalf of the father of the Assessee. The sale of crops was admittedly made in the Financial Year 2008-09 and at that time the sale consideration of the produce used to be given in cash only. That the rules for transfer of the sale consideration in bank account have become operative for the last 3 - 4 years only. There was no evidence that there was any other amount transferred to the bank account of the father of the Assessee on account of the said sale produce.

5. The Ld. DR could not rebut the above arguments of the Ld. Counsel for the Assessee. We, therefore, do not find any justification on the part of the lower authorities in making /



confirming the impugned addition. The addition of Rs. 6,54,300/-, therefore, is ordered to be deleted.

6. **Ground Nos. 3 & 4:** Vide Ground No.3 and 4, the Assessee has contested the confirmation of addition of Rs. 5 lacs and Rs. 16 lacs on account of unexplained cash credits in the bank account of the Assessee. The plea of the Assessee has been that the said amount was received from one Mohinder Singh, as a loan, for the purchase of certain land to be purchased by the Assessee jointly with other persons. Mohinder Singh has stated on oath that he has given a sum of Rs. 15 lacs on 6.1.2009 and Rs. 6 lacs on 8.1.2009. Out of Rs. 15 lacs received on 6.1.2009, Rs. 5 lacs were deposited in the bank account and balance Rs. 10 lacs kept at home. Then on 8.1.2009, Rs. 6 lacs was further borrowed from Shri Mohinder Singh. The above amount of Rs. 6 lacs along with Rs. 10 lacs kept at home, totaling Rs. 16 lacs was deposited in bank along with Rs. 47 lacs. The total deposit was of Rs. 63 lacs. The Ld. counsel has submitted that the aforesaid facts were undisputed as there was no contradiction, as Assessee and Shri Mohinder Singh both stated that amount was borrowed for purchase of property along with others.

7. We note that the Ld. CIT(A) has categorically noted that the identity of the creditors and creditworthiness of the creditors was not disputed. He only disputed the genuineness of the transactions. The ld. Counsel for the Assessee has invited our attention to certain observations made by the CIT(A) in relation to the other grounds of appeal, wherein, the Ld. CIT(A) at page 32 of the impugned order has noted that the Assessee was involved in transactions of sale and purchase of land on behalf of the others and that the Assessee's bank account was used for deposits of the amount for the sale / purchase transactions. In relation to the issue, the said creditor Mohinder Singh has deposed that he has given the amount in question to the Assessee for purchase of land. Though, the Ld. CIT(A) has rejected the contention of the Assessee only on the ground that it was not mentioned that the land was to be purchased in the name of Mohinder Singh and that why Mohinder Singh would give amount for purchase of land in the name of the Assessee. In our view, the above observations of the Ld. CIT(A) are mere suspicions. However, the fact on the record is that the creditor Mohinder Singh has duly admitted the payment to the Assessee for purchase of land and further

the creditworthiness of the creditor Shri Mohinder Singh was not in doubt. It has also been an established fact on the file that the Assessee is involved in sale and purchase of land on behalf of others. In this case a specific reason has been mentioned by Mohinder Singh, creditor that the amount was given for purchase of land. We, therefore, do not find justification on the part of the lower authorities in making the impugned addition. The same is accordingly ordered to be deleted.

8. **Ground No.5:** Vide Ground No.5, the Assessee has contested the protective addition of Rs. 4,23,984/-. The A.O. noted that the Assessee had earned business income from trading of real estate during the year but no profit has been disclosed to the Department. The contention of the Assessee has been that the aforesaid sale / purchase transactions were done by the Assessee along with other persons. That the Assessee declared Rs. 1,97,242/- as his profit/commission from the said transactions. The A.O. noted that the total profit was of Rs. 6,21,226/-. The Assessee had declared that his profit was of Rs. 1,97,242/-. The Assessing Officer held that the whole activities were done by the Assessee and he, therefore, made the addition of

the remaining amount of Rs. 4,23,984/- in the hands for the Assessee on protective basis.

9. The Ld. CIT(A) confirmed the addition so made by the A.O.

10. We have heard the rival contentions. It has been categorically noted by the Assessing Officer that the name of other persons were mentioned in the sale deeds. This fact alone is sufficient to prove that the other persons were co-sharers who shared the profits from the sale / purchase of land in question. In view of this, the impugned addition made by the lower authorities is not tenable and the same is accordingly ordered to be deleted.

11. **Ground No.6**, which is general in nature, requires no adjudication.

In the result, the appeal of the Assessee stands allowed.

Order pronounced on 20.10.2023

Sd/-

VIKRAM SINGH YADAV
Accountant Member

Dated : 20-11-2023
10.2023

Sd/-

SHRI TEJINDER SINGH
Judicial Member

“आर.के.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT,
CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायकपंजीकार/ Assistant
Registrar