

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR
BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA No.68(Asr)/2017
Assessment Year:2006-07

Income Tax Officer
Ward-3(4), Jalandhar

Vs. Gurinder Singh Sodhi
Prop. G. Sodhi & Associates,1
Bombay Nagar, Jalandhar

PAN:AYCPS0431M

(Appellant)

(Respondent)

Appellant by: Sh. Charan Dass (Ld. DR)
Respondent by: Sh. Gunjeet Singh Syal (Ld. Adv.)

Date of hearing: 03.04.2018
Date of pronouncement: 17.04.2018

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeal has been preferred by the Revenue Department, on feeling aggrieved against the order dated 04.11.2016 passed by the Ld. CIT(A)-2, Jalandhar u/s 250(6) of the I.T. Act, 1961 (hereinafter called as 'the Act) for Asst. Year:2006-07.

2. The following grounds of appeal raised by the Revenue Department.

"1. That on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.91,81,000/- made by the Assessing Officer on account of alleged security money received.

2. *That on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law and on facts in deleting the addition holding that AO was able to find discrepancy in two cases only, particularly when the AO had specifically held that he was quoting the instances and there were many such discrepancies.*

3. *That on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law and on facts in ignoring the finding of the AO regarding wrong addresses of the students and denial of a student regarding the security given/refunded.*

4. *That on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law and on facts in ignoring the fact that assessee had failed to substantiate his claim of refund of securities to 33 students, as per directions of Hon'ble ITAT.*

5. *It is prayed that the order of the Ld. Commissioner of Income Tax (Appeals) be set aside and that of the Assessing Officer be restored.”*

3. In the instant case, the assessee engaged in running educational institutions and provides training to students under the Canada Law for going to Canada for work and the assessee's duty to secure jobs for the students in Canada and to train them according to Canadian Law so that they would be eligible to get Canadian visa on the basis of many services by the assessee and for this process the assessee has received fees along with security amounts from the students, so that, they could go to Canada and join the employers as per Canadian Law. After completion of whole process, the security money(s) was supposed to be refunded back to the students. The details of the security amounts refunded to 33 students along with mode and date of payment has been given to the AO in the course of assessment proceedings and during the assessment

proceedings, the statements of 5 persons were also recorded by the AO for verification of the claims of refunds of security as well as copy of Bank Statements of HDFC Bank of the assessee, wherein the details of payments refunded back to each of the persons has been stated and marked with the corresponding serial number given to that person in the reconciliation list. The Assessing Officer after considering the submissions of the assessee observed that in some of the cases, the information supplied by the assessee were found false. The Assessing Officer while mentioning two instances of discrepancies, opined that there are number of such cases where discrepancies can be found and therefore, in the said circumstances, the list provided by the assessee cannot be accepted to be correct and genuine and finally made an addition of Rs.1,01,81,000/-.

4. The assessment order was challenged before the Ld. CIT(A), who while confirming the addition of Rs.10 lacs out of total addition of Rs.1,01,81,000/- made by the AO, deleted the rest addition of Rs. 91,81,1000/-.

5. Feeling aggrieved against the order passed by the Ld. CIT(A), the Revenue Department preferred the instant appeal and in support of its case submitted that the Ld. CIT(A) has erred in law and fact in deleting the addition of Rs.91,81,000/- on account of alleged security money received by holding that the AO was able to find discrepancies in two cases only, whereas the AO specifically held that he was quoting the instances and there were many such discrepancies. Further the Ld. CIT(A) has

also erred in law and fact in ignoring the finding of the AO regarding the wrong addresses of the students and denial of students regarding the security given/refunded, particularly, the assessee had failed to substantiate his claim of refund of his security to 33 students.

6. On the other hand, the Ld. AR drawn our attention to the order passed by the Ld. CIT(A) as well as copy of transactions shown in the account of the assessee in HDFC Bank Ltd., Model Town Market, Jalandhar and submitted that the order under challenge is based on the logical and plausible reasoning as well as material placed on record during the assessment as well as appellate proceedings, hence, does not require any interference from this Court.

7. All the grounds raised by the Revenue Department are interconnected with each other, therefore, for the sake of convenience and brevity, have been taken simultaneously for adjudication.

We have gone through with the facts and circumstances as well as rival submissions of the parties and relevant material on record. In the instant case, list of 33 students, to whom security money have claimed to be refunded, had been provided by the assessee to the Assessing Officer out of which, the Assessing Officer quoted two instances of discrepancies, however, rejected the entire list and made the addition of total amount of Rs.1,01,81,000/-, which was partly confirmed by the Ld. CIT(A)

to the tune of Rs.10,00,000/- only by observing that the appellant has failed to furnish satisfactory evidence to substantiate the fact of having refunded back to security deposit of Rs.5,00,000/- each to two persons namely Smt. Rajdeep Kaur and Smt. Rajwinder Kaur. The rest addition of Rs.91,81,000/- was deleted. It is clearly observed by the Ld. CIT(A) that list containing the names of 33 persons with complete addresses as well as details of amounts of security received from each of them on different dates along with date of refund of security and cheque nos. through which the amount has been refunded back, has been filed by the assessee, and out of 33 students, statement of five persons have also been recorded by the AO for verification of the said claims of refunds of security. We have considered the Bank Statement of HDFC Bank, which was called upon by the AO, although not confronted to the assessee, however, utilized for making the addition. Out of 33 transactions/entries, 12 have been enrouted through account payee cheques and remaining have been enrouted through bearer cheques only, however, names of payees have been specifically mentioned therein. From the orders passed by the authorities below and specifically impugned herein, it clearly reflects that the assessee has been able to substantiate the fact of having refunded back the security deposits to 31 persons out of total 33 persons and in respect of transaction of 2 persons, failed to furnish satisfactory evidence and, therefore, the Ld.

CIT(A) partly confirmed the addition to the tune of Rs.10,00,000/- only.

On the aforesaid considerations and observation, we are of the considered opinion that the order impugned herein is based upon the logical reasoning, well reasons and material placed on record, specifically the list of 33 persons, out of which 31 persons have received the security amounts, statement of 5 persons recorded by the AO for verification of the claim of refund of security and Bank statement of HDFC Bank Ltd. which was specifically relied upon by the AO while making addition. The Revenue Department failed to demonstrate/submit, any circumstance/adverse material for making the order under challenge as improper, perverse and/or illogical, hence, the appeal filed by the Revenue Department stands rejected.

9. In the result, the appeal filed by the Revenue Department stands dismissed.

Order pronounced in the open Court on 17.04.2018.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

Sd/-
(N. K. CHOUDHRY)
JUDICIAL MEMBER

Dated: 17.04.2018

/PK/ Ps.

Copy of the order forwarded to:

- (1) Gurinder Singh Sodhi, Jalandhar
- (2) The Income Tax Officer, Ward-3(4), Jalandhar
- (3) The CIT(A)-2, Jalandhar
- (4) The CIT concerned.
- (5) The SR DR, I.T.A.T., Amritsar

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By order