

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER  
AND SH. N. K. CHOUDHRY, JUDICIAL MEMBER

**I.T.A. No. 134/(Asr)/2017**

Assessment Year: 2008-09

Balwinder Singh,  
E.O. 45-46, Inside  
Saidan Gate, Jalandhar  
[PAN: ALNPS 7661K]

**(Appellant)**

Vs. Income Tax Officer,  
Ward III(1), Jalandhar

**(Respondent)**

Appellant by : Sh. Surinder Mahajan (C.A.)

Respondent by: Sh. A. N. Mishra (D.R.)

Date of Hearing: 17.05.2018

Date of Pronouncement: 24.05.2018

**ORDER**

Per Sanjay Arora, AM:

This is an Appeal by the Assessee, agitating the Order by the Commissioner of Income Tax (Appeals)-2, Jalandhar ('CIT(A)' for short) dated 06.01.2017, dismissing the Assessee's appeal contesting his assessment u/s. 144 of the Income Tax Act, 1961 ('the Act' hereinafter) dated 30.12.2010 for the Assessment Year (AY) 2008-09.

2. The assessee, a salaried person, filed his return of income for the relevant year on 01.09.2008, declaring an income of Rs.1,55,940/-. The same was selected for being subject to the verification procedure under the Act in view of the cash deposits in his saving bank account with ICICI Bank during the relevant year at Rs.11.62 lacs, the nature and source of which he was therefore asked to explain in

the assessment proceedings. Though, one, Mr. Parveen Julka, Accountant, appeared in response to the notices u/s. 143(2) and 142(1) dated 08.09.2010, no explanation was furnished. The Assessing Officer (AO) accordingly completed the assessment u/s. 144 by treating the said cash deposits as the assessee's unexplained income. In appeal, the assessee filed a cash flow statement in substantiation of the cash deposits in his said bank account. His legal objection to the non-service of notice u/s. 143(2) (issued on 04.09.2009), as well as the non-appearance on 30.09.2009 (stating Mr. Julka to be an unknown person, much less authorized by him), the date fixed for hearing thereby, was met by the Id. CIT(A) on the basis of the remand report by the AO – which finds reproduction in his order, based on the assessment record (refer paras 4.3 to 4.6 of the impugned order). On the merits of the quantum addition, the assessee's cash flow statement was again found by him as unsubstantiated and, accordingly, confirmed; the operating part of his adjudication reading as under:

‘5.5 The appellant has filed a cash flow statement in the course of appellate proceedings, which was forwarded to the AO for examination but no comments were received in the remand report on the same. Therefore, I proceed to examine the sources of funds from the statement filed by the appellant. After carefully, examining the same, I find that there is no evidence being brought on record by the appellant to substantiate the sources of cash in hand on the first day of the year under consideration. The fact of the matter is that salary drawn by the appellant is only Rs.2,16,138 and out of the same cash withdrawn is Rs.1,77,384 in the year under consideration. The appellant has stated that boutique income of Rs.1.35 lacs has been earned by the wife but no supporting evidence for any of the contentions raised has been filed. No evidence of any ITR filed by the wife or to substantiate the business activities carried out by her could be brought on record. There is no reason or rhyme to support the evidence of opening cash in hand giving the level of salary income of the appellant or sources of income of the wife.

5.6 In view of the above facts, I hold that appellant has not been able to furnish any credible evidence to support the sources of cash deposits made in the bank account of the appellant. Accordingly, I confirm the addition of Rs.11,62,331 made by the AO on this account.’

Aggrieved, the assessee is in second appeal.

3. We have heard the parties, and perused the material on record.

The Id. Authorized Representative, Mr. Mahajan, during hearing opted not to press the legal grounds, raised per Grounds 1 to 3, making an endorsement to that effect on the appeal file. The same are accordingly dismissed as not pressed.

*Qua* the quantum addition, the Id. CIT(A) has found the assessee's explanation, advanced in the form of a cash flow statement (at PB pgs. 25-29), as not satisfactory on the ground of the opening cash balance (as on 01.04.2007), at Rs.5.10 lacs, and the cash introduced (Rs.3.50 lacs), stated to be received by the assessee from his wife (on 31.10.2007 & 10.02.2008 at Rs.1.75 lacs each). There was, he held, given the assessee's income profile, no basis for such a huge cash balance as at 01.04.2007, and neither anything on record to substantiate the cash available with the assessee's wife. An examination of the cash flow statement, however, shows that the assessee had filed the same for a period of three years, i.e., from 01.04.2005 to 31.03.2008, beginning with a cash balance of Rs.10,000/- – a nominal amount, as on 01.04.2005. No error in the said statement, which was accompanied by the bank statement (PB pgs. 9-24) has been pointed out by the Revenue. Even no query with regard to the reason for the cash build-up, which is no doubt unusual, and claimed on the basis of the cash withdrawals from the said bank account, has been made. How therefore we wonder could same be assailed? The only objection that therefore survives is with regard to the cash stated to be received by the assessee from his wife, i.e., Rs.3.50 lacs. The assessee has failed to meet the Revenue's objection in this regard. No improvement in his case stands made before us. Under the circumstances, therefore, in entirety, we consider it appropriate to restrict the addition with regard to unexplained cash deposits in his bank account by the assessee during the year to Rs.3 lacs. We decide accordingly.

4. In the result, the assessee's appeal is partly allowed.

*Order pronounced in the open court on May 24, 2018*

Sd/-  
(N. K. Choudhry)  
Judicial Member

Sd/-  
(Sanjay Arora)  
Accountant Member

Date: 24.05.2018

*/GP/Sr. Ps.*

Copy of the order forwarded to:

- (1) The Appellant: Balwinder Singh, E.O. 45-46, Inside Saidan Gate, Jalandhar
- (2) The Respondent: Income Tax Officer, Ward III(1), Jalandhar
- (3) The CIT(Appeals)-2, Jalandhar
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T

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By Order