

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

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

ITA No.655(Asr)/2017
Assessment Year:2009-10

Income Tax Officer
Ward-5(3), Amritsar

Vs. Smt. Karampal Kaur
D/o Pritpal Singh
224, Aakash Avenue, FC Road
Amritsar, (Punjab)

(Appellant)

PAN:BVNPK3371D
(Respondent)

Appellant by: Sh. Bhawani Shankar (Ld. DR)
Respondent by: Sh. Mandeep Singh (Ld. CA)

Date of hearing: 22.05.2018
Date of pronouncement: 30.05.2018

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeal has been preferred by the Revenue Department, on feeling aggrieved against the order dated 19.07.2017 impugned herein, passed by the Ld. CIT(A)-2, Amritsar u/s 250(6) of the I.T. Act, 1961 (herein after called as 'the Act') for the Asst. Year:2009-10.

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

“1. The Ld. CIT(A) has erred in deleting the addition of Rs.61,60,000/- which is remained unexplained.

2. Whether the Ld. CIT(A) is justified in deleting the addition in view of the facts that appellant could not furnished source of AIR information of Rs.30,35,000/- and cheque of Rs.31,25,000/-

deposited on 07.04.2009, in the saving a/c of the assessee to be sale of land.”

3. In the instant case, the case was reopened u/s 147 of the Act by issuing notice u/s 148 of the Act. As per information available on record, it was noticed that she has deposited Rs.30,35,000/-, Rs.31,25,000/- on dated 7th April, 2008 and Rs.50,000/- on dated 04.11.2008 respectively, during the financial year: 2008-09 in Saving Bank Account No. 6304 1010 0019 103, maintained with Bank of India. Although it was explained by the Assessee that the bank account no. under consideration is a joint account with her husband and her husband has sold the property, documents of which has already been filed during assessment proceedings and the amount of Rs.31,25,000/- was deposited by her husband and amount of 30,35,000/- nowhere reflects during the relevant financial year, however explanation of the Assessee was not acceded by the assessing officer and the aforesaid amounts have been added to the Income of the Assessee by passing Assessment Order. The assessment order was challenged before the Ld. CIT(A), who While considering the explanation given by the assessee deleted the additions Rs. 31,25,000/- and 30,35,000/- as stated above. Now, Revenue is in appeal before us.

The assessee has filed the Paper Book which contains the sale deed of Rs.31,25,000/- executed by her husband Sh. Tanveer Singh and Bank Account statement of

account no. 6304 1010 0019 103, period from 7th April, 2008 to 31st March, 2009, maintained with Bank of India. The assessee has also filed a copy of the assessment order passed in the name of her husband relevant to the Asst. Year:2009-10 in which the said amount also considered by the Assessing Officer .

With regard to the addition of Rs.30,35,000/- it was submitted by the Ld. A.R. that this amount nowhere appears as deposited in the Bank Statement during the relevant financial year concerned . The Id. CIT(A) while deciding the appeal , duly observed that apparently the AO made the said addition without verifying the said Bank Account as there was no entry of cash deposit of Rs.30,35,000/- in the said joint Bank Account of the assessee through out the year 2008-09, therefore, no question of the addition of Rs.30,35,000/- on account of unexplained cash deposit on dated 17.02.2009 in the said bank account, therefore, the Ld. CIT(A) further deleted the said addition.

With regard to the addition of Rs. 31,25,000/- , it was submitted by the Assessee that the said amount was sale consideration of agriculture land sold by her husbands as detailed above, and was deposited by her husband in the aforesaid joint account , therefore no addition is called for .

4. We have independently applied our mind to the Bank Statement filed by the assessee which is also part of the record of the authorities below, we have failed to understand

that as to how the Assessing Officer has found the entry of cash deposits of Rs.30,35,000/- in the Bank Account of the assessee on 17.02.2009 in Bank of India, whereas in real fact that does not reflect. On the aforesaid observation, we are of the considered opinion, that the Ld. CIT(A) rightly deleted the addition under this head.

With regard to the addition of Rs.31,25,000/- claimed to have been deposited on dated 07.04.2009 by way of cheque in the aforesaid Saving Account of the assessee, which was treated as unexplained deposit, although, it was pleaded by the assessee before the Assessing Officer that the said amount does not belong to the assessee as the seller of the agriculture land is her husband who received sales consideration of agricultural land, vide Bank Draft No.024895 dated 03.04.2008 drawn on Gurdaspur Amritsar Agriculture Co-operative Development Bank Ltd. from the buyer namely Baba Teja Singh Radha Swami Satsang Charitable Trust and Conveyance Deed of the same was also produced before the Assessing Officer. It was further pleaded that assessee is having Saving Bank Account with Bank of India as a joint account no.6304 1010 0019 103 and her husband had deposited the amount consideration the said joint account, however, the Assessing Officer treated the said amount as unexplained on the ground that no satisfactory reply with corroborative documentary evidence has been filed by the assessee. The said addition was deleted by the Ld. CIT(A) while observing that in view of the copy of the sale deed of

agriculture land dated 07.04.2008 sold by the husband of the assessee, wherein the payment of sale consideration of Rs.31,25,000/- by draft no.024895 dated 03.04.2008 is clearly mentioned, therefore, the source of credit entry of Rs.31,25,000/- on 07.04.2008 in the said joint bank account of assessee in Bank of India account no.6304 1010 0019 103 is clearly explained and therefore, no addition is called for and the said addition of Rs.31,25,000/- is accordingly deleted.

We also perused the relevant documents on record particularly the sale deed and deposit entry of Rs.31,25,000/- on dated 07.04.2009 in the said joint saving bank account in Bank of India. Even otherwise, in the assessment order relevant to the assessment year: 2009-10, it is clearly observed by the Assessing Officer that sale consideration of the aforesaid transactions was deposited by the assessee i.e. Sh. Tanveer Singh (Assessee's husband) in account no. stated above, which is jointly held with his wife Smt. Karampal Kaur (assessee in the instant appeal) with Bank of India, Mall Road Branch, Amritsar. It was further observed by the Assessing Officer that the above agriculture land was inherited land transferred to him on the death of his father who also inherited the same from his father i.e., grand father of the assessee. Since, the land was rural agriculture land and not a capital asset u/s 2(14) of the Act, there was no capital gain and thus was not declared on the computation of the income.

On the aforesaid analyzation, we are of the considered view that once the amount under consideration has already been considered as subject matter in the assessment proceedings of the husband who is the real seller of the land under consideration as reflects from record, therefore there is no *iota of doubt* that the said sale consideration was deposited by the husband of the assessee in the joint account held in Bank of India which also stands proved from the orders of the authorities below, hence, in our considered view, the Ld. CIT(A) has rightly deleted the said addition, while considering the relevant documents on record and hence, does not require any interference by this Court.

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

Order pronounced in the open Court on 30.05.2018.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

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

Dated:30.05.2018

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Copy of the order forwarded to:

- (1) Smt. Karampal Kaur, Amritsar
- (2) The ITO, Ward-5(3), Amritsar
- (3) The CIT(A)-2, Amritsar
- (4) The CIT concerned
- (5) The SR DR, I.T.A.T., Amritsar

True copy

By order