

**IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH 'A', CHANDIGARH
BEFORE SHRI. SANJAY GARG, JUDICIAL MEMBER AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.335/Chd/2018
Assessment Year: 2008-09

Shri Dharam Pal Gandhi
560-LSE Building, Feroze Gandhi
Market, Ludhiana

Vs. The Addl. CIT
Range-VI
Ludhiana

PAN No. ABWPG3067A

(Appellant)

(Respondent)

Appellant By : Shri. Ashwani Kumar
Respondent By : Smt. Chandrakanta

Date of hearing : 09/08/2018
Date of Pronouncement : 18/09/2018

ORDER

PER DR. B.R.R. KUMAR, A.M.:

The present appeal has been filed by the Assessee against the order of the Ld. CIT(A)-4, Ludhiana dt. 25/01/2018.

2. Only one ground of appeal raised by the assessee is as under:

"That order passed under section 250(6) of the Income Tax Act, 1961 by the Ld. CIT(A)-4, Ludhiana is against law and facts on the file in as much as she was not justified to arbitrarily uphold the addition of Rs. 5,17,200/- made by the Ld. AO on account of alleged investment in the purchase of property not disclosed fully in the books of accounts.

3. Brief facts of the case as enumerated in the order of the Ld. CIT(A) are that the assessee filed his return of income for the A.Y. 2008-09 on 29.09.2008 declaring an income of Rs. 1,54,68,950/-. During the course of assessment proceedings, the assessing officer noticed that the assessee had purchased a property and investment on account of purchase was shown at Rs.8,50,000/- in the books of accounts of the assessee. Since the residential area in question was an upmarket locality and as per local inquiries conducted by the Income Tax Inspector, the prevailing rates in Bhai Randhir Singh Nagar ranged from Rs.40,000 to Rs.45,000 per Sq. yard, the assessing officer had reason to believe that investment in the property in question was suppressed and not fully reflected in the books of

account of the assessee. Accordingly, the assessing officer invoked the provisions of section 142A of the Act and referred the property to the valuation cell for making valuation of the property. The assessee was showcaused to explain the difference in values of investment as determined by the valuation cell and those shown by the assessee. Being unsatisfied with the explanation offered by the assessee, the assessing officer after giving credit of an amount of Rs.2,73,800/- spent on construction of the building in question during the A.Y. 2009-10, re-estimated the value of the building at Rs. 13,67,200/-. The difference in the value so arrived by the assessing officer and that reflected in the books of accounts of the assessee was worked out at Rs.5,17,200/- which was added back to the returned income of the assessee by invoking the provisions of section 69B of I.T.Act, 1961. The assessment was completed on 30.12.2010 u/s 143(3) of I.T. Act, 1961.

4. Before us, Ld. AR argued that there is no difference in the consideration paid by the assessee and the value adopted by the Stamp Duty Authority of the State Government, hence no adjustment or addition by referring to the DVO is not required primarily. While Ld. DR relied on the order of the Ld. CIT(A).

5. From the facts we find that the property in question was referred to the DVO on the premise that the cost of the land in question was approximately Rs. 40,000/- yard as per the local enquiries. The DVO in the report has considered the value of the land at circle rate so there is no dispute as far as the cost of land is concerned. The difference in the value of Building as per the assessee and the rate determined by the DVO is due to difference in the methodology adopted namely Straight Line Method (SLM), Written Down Method (WDM). The only dispute is regarding the valuation method wherein both the methods are acceptable methods. The Assessing Officer made addition based on the Valuation Report submitted by the DVO which is purely on an estimate basis. The Assessing Officer did not have any other material to prove any undisclosed income invested in the property. Since the addition made is solely on estimate basis without any other corroborative material of

unexplained investment, we hereby delete the addition made by the Assessing Officer.

6. As a result, the appeal of the Assessee is allowed.

Order pronounced in the open Court.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER

Dated : 18/09/2018
AG

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR