

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

श्री संजय गर्ग, न्यायिक सदस्य एवं डा. बी.आर.आर. कुमार, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1624/CHD/2017

निर्धारण वर्ष / Assessment Year : 2013-14

Smt. Swaran Lata, #2, Narula Colony, Near Patiala Auto Enterprises, The Mall, Patiala	बनाम	The ITO, Ward-1, Patiala
स्थायी लेखा सं./PAN NO: AAFPL1622F		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Sh. Deepinder Singh, Advocate

राजस्व की ओर से/ Revenue by : Smt.Chanderkanta, Sr.DR

सुनवाई की तारीख/Date of Hearing : 14.08.2018

उद्घोषणा की तारीख/Date of Pronouncement : 12.11.2018

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 16.10.2017 of the Commissioner of Income Tax (Appeals)-3, Ludhiana [hereinafter referred to as 'CIT(A)'] agitating the confirmation of addition of notional interest @ 12% on the interest free advances made by the assessee to her close relatives i.e. son and nephew.

2. At the outset, Ld. Counsel for the assessee has brought our attention to the record of the lower authorities for making / confirmation of the aforesaid additions only on the basis of assumptions and presumption, without any reliable evidence. It was noted by the Assessing officer that that the assessee had not charged any interest on the advances given to her son and nephew. The Assessing officer has pointed out three entries in this

respect. Firstly, the assessee had advanced an amount of Rs. 10 lacs to her nephew Shri Jatinder Singla without charging any interest. Further, an amount of Rs. 17 lacs was advanced without interest to her son Shri Sachin Kansal which the assessee has claimed that the actual payment was of Rs. 16 lacs and not Rs. 17 lacs. The third entry is regarding the advancement of amount of Rs. 15 lacs to M/s Anmol Enterprises, proprietorship concern of her nephew Shri Jatinder Singla, but the same was advanced at an interest rate of @ 9% per annum. The Assessing officer observed that the assessee, on the other hand, had taken some car loan on interest basis. He, therefore, assumed that the assessee might have taken interest @ 12% from the aforesaid persons and accordingly made the addition of @ 12 % on the interest free advances made to her son and her nephew and further added 3% interest in the case of M/s Anmol Enterprises to whom the assessee charged interest @ 9%.

3. Simply because the assessee has taken some car loan on interest basis that itself in our view, cannot be a ground to make the impugned additions. The loanees are the close relatives of the assessee and it is the own will or wish of the assessee whether to charge interest from her close relatives like her son or nephew or not. There is no evidence that the assessee has charged any interest from the aforesaid persons.

In view of this, the additions made by the Assessing officer and further confirmed by the CIT(A) are not sustainable in the eyes of law and the same are accordingly ordered to be deleted.

In the result, the appeal of the assessee is hereby allowed.

Order pronounced in the Open Court on 12.11.2018

Sd/-
(बी.आर.आर. कुमार / B.R.R. KUMAR)
लेखा सदस्य/ Accountant Member

Sd/-
(संजय गर्ग / SANJAY GARG)
न्यायिक सदस्य /Judicial Member

Dated : 12.11 .2018

“आर.के.”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant Registrar