

**IN THE INCOME TAX APPELLATE TRIBUNAL  
CAMP BENCH AT JALANDHAR**

**Before Sh. N. K. Saini, Hon'ble Vice President  
and  
Sh. Ravish Sood, Judicial Member**

**ITA No.241/Asr./2017 : Asstt. Year : 2009-10**

Dy. Commissioner of Income Tax, Central Circle-I, Jalandhar	Vs	Sh. Ranjit Singh, S/o Sh. Mehnga Singh, VPO-Beas Pind, District-Jalandhar
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. CTJPS4497P</b>		

**CO No.23/Asr./2017 : Asstt. Year : 2009-10**

Sh. Ranjit Singh, S/o Sh. Mehnga Singh, VPO-Beas Pind, District-Jalandhar	Vs	Dy. Commissioner of Income Tax, Central Circle-I, Jalandhar
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. CTJPS4497P</b>		

**ITA No.242/Asr./2017 : Asstt. Year : 2009-10**

Dy. Commissioner of Income Tax, Central Circle-I, Jalandhar	Vs	Sh. Charan Singh Urf Gurcharan Singh, S/o Sh. Dhanna Singh, VPO-Sarmastpur, Jalandhar
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. FIFPS1985G</b>		

**CO No.25/Asr./2017 : Asstt. Year : 2009-10**

Sh. Charan Singh Urf Gurcharan Singh, S/o Sh. Dhanna Singh, VPO-Sarmastpur, Jalandhar	Vs	Dy. Commissioner of Income Tax, Central Circle-I, Jalandhar
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. FIFPS1985G</b>		

**Assessee by : Sh. S. S. Kalra, Adv.  
Revenue by : Sh. Bhawani Shankar, DR**

<b>Date of Hearing : 07.01.2019</b>	<b>Date of Pronouncement : 07.01.2019</b>
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## ORDER

### Per N. K. Saini, Vice President:

The appeals by the department and the Cross Objections by the assesseees are directed against the separate orders each dated 27.02.2017 of Id. CIT(A)-5 Ludhiana in respect of the each assessee.

2. Since, the issues involved are common and the appeals along with Cross Objections were heard together, so these are being disposed off by this common order for the sake of convenience and brevity.

3. At the first instance, we will deal with the appeal of the department and the Cross Objection of the assessee in the case of Sh. Ranjit Singh Vs DCIT. In the departmental appeal only effective ground raised read as under:

*“(i) Whether Ld. CIT(A) has not erred in quashing the assessment made under section 147/148 of the Income Tax Act, 1961 on the ground that assessment should have been framed u/s 153C of the Income Tax Act, 1961 when documents seized did not belong solely to Sh. Charan Singh Urf Gurcharan Singh. And that Sh. Charan Singh Urf Gurcharan Singh was just party to the land sale/purchase transaction, being owner of the land sold and document seized belonged to Sh. Neeraj Puri in whose case assessment was framed u/s 153A.”*

4. The only ground raised in the Cross Objection is following:

*“1. That the CIT(A) ought to have also decided the issue on merits particularly on account of eviction charges paid, allowability o indexed cost and exemption allowable u/s 54B of the Act which he has not done by*

*simply holding “these grounds do not require separate adjudication in view of findings on the legal ground raised.”*

5. The facts of the case in brief are that the AO reopened the assessment on the basis of information that the assessee had not paid tax on capital gain income of Rs.1,74,01,064/-. Since, there was no compliance by the assessee on the notices issued by the AO, the assessment was framed u/s 144 of the Income Tax Act, 1961 (hereinafter referred to as the Act) by making the addition of Rs.1,74,01,064/-.

6. Being aggrieved the assessee carried the matter to the Id. CIT(A) and challenged the jurisdiction of the AO in reopening the assessment. On the ground that the assessment in this case should have been framed u/s 153C of the Act and not u/s 147 of the Act. The reliance was placed on the order dated 23.06.2016 of the ITAT Amritsar Bench in ITA Nos.15 & 16/Asr./2015 in the cases of Sh. Gurnam Singh Vs ACIT, CC-1, Jalandhar and Sh. Bachan Singh Urf Gurbachan Singh Vs DCIT, CC-1, Jalandhar.

7. The Id. CIT(A) after considering the submissions of the assessee quashed the assessment by following the aforesaid referred to order dated 23.06.2016. The relevant findings have been given in the impugned order by the Id. CIT(A) as under:

*“The facts of the present case are identical to the facts of the cases decided by the Hon’ble ITAT vide order dated 23.06.2016 mentioned above. The assessment in the case of the appellant was also reopened on the basis of documents found during the same search conducted on 03.04.2012, the appraisal report mentions the name of the appellant and details of land sold in annexure-1 as well as in annexure-II as mentioned by the AR in his submissions filed on 23.02.2017. Since, the facts of the present case are similar to the*

*facts decided by the Hon'ble ITAT Amritsar Bench in its order dated 23.06.2016, therefore, the reassessment made in this case under Section 144 after issue of notice under Section 148 instead of making the assessment under Section 153C, is also held to be unsustainable. Hence, respectfully following the decision of the Hon'ble ITAT, the assessment framed in this case by the AO, vide order dated 23.09.2013, is also quashed."*

8. Now the department is in appeal. The Id. Counsel for the assessee at the very outset stated that this issue is squarely covered vide order dated 23.06.2016 of the ITAT Amritsar Bench in ITA Nos.15 & 16/Asr./2015 for the assessment year 2009-10 in the case of Sh. Gurnam Singh Vs ACIT, CC-1, Jalandhar and Sh. Bachan Singh Urf Gurbachan Singh Vs DCIT, CC-1, Jalandhar (Copy of the said order was furnished which is placed on record).

9. In his rival submissions, the Id. DR supported the orders of the AO.

10. We have considered the submissions of both the parties and perused the material available on the record. In the present case, it is noticed that an identical issue having similar facts was a subject matter of the adjudication by the ITAT Amritsar Bench in ITA Nos.15 & 16/Asr./2015 for the assessment year 2009-10 in the case of Sh. Gurnam Singh Vs ACIT, CC-1, Jalandhar and Sh. Bachan Singh Urf Gurbachan Singh Vs DCIT, CC-1, Jalandhar wherein the relevant findings have been given in paras 14 to 17 of the order dated 23.06.2016 which read as under:

*"14. Now, it is evidence from the Appraisal Report in the case of Sh. Neeraj Puri, as noted hereinabove, that the sale deed of the assessee was found only during the search in the case of Sh. Neeraj Puri. That being so, the provisions of section 153C of the Act are directly applicable. To reiterate, the Hon'ble Supreme Court, in the case of 'Manish Maheshwari' (supra), has laid down that if the procedure in section 158BD is not followed, block assessment*

*proceedings would be illegal. It is irrefutable that the provisions of section 153C of the Act are in pari materia with those of section 158BD. Therefore, as taken note of, if the procedure laid down in section 153C is not followed and recourse is not taken to section 158BD, the same would be bad in law. 'Arun Kumar Kapoor' (supra) is also to the same effect. In accordance therewith, we hold that the proceedings u/s 148 of the Act, as rightly contended on behalf of the assessee, are not sustainable, in view of the presence of section 153C, which obliterate to the operation of the provisions of sections 147/148 of the Act, in given circumstances, which exist in the case of the present assessee also.*

*15. It may be noted that though vide order dated 17.10.2014, the relevant portion whereof has been reproduced in the preceding portion of this order, the ld. CIT(A) allowed the appeal of the assessee, vide order dated 10.11.2014, the said earlier appeal order was rectified by passing the following rectification order:*

*“The AO is directed to substitute above figure of Capital Gain at Rs.72,85,000/- instead of Rs.3,14,16,437/-.”*

*15. In view of the above, finding the grievance of the assessee to be justified, the same is accepted. The assessment framed u/s 148 of the Act is quashed.*

*16. In the result, the appeal is allowed.*

*17. Now, we take up the appeal of the assessee in ITA No.15(Asr)/2015, for the assessment year 2009-10, in the case of Sh. Gurnam Singh. The facts and circumstances in this appeal are exactly similar, as decided by us, hereinabove, in ITA No.16(ASr)/2016 in the case of Sh. Bachan Singh, Therefore, our observations in ITA No.16(Asr)/2015 shall, mutatis mutandis, equally apply to ITA No.15(Asr)/2015. Thus, the appeal of the assessee is allowed.”*

11. So, respectfully following the aforesaid referred to order, we do not see any merit in this appeal of the department.

12. Since, the appeal of the department is dismissed, the Cross Objection arising out of the said appeal of the department, filed by the assessee becomes infructuous and hence dismissed.

13. In ITA No. 242/Ars./2015 and CO No. 25/Asr./2015 relating to Sh. Charan Singh Urf Gurcharan Sigh, the facts are identical as were involved in the case of Sh. Ranjit Singh which we have already adjudicated in the former part of this order. Therefore, our findings given therein shall apply *mutatis mutandis*.

14. In the result, the appeals of the department and the Cross Objections of the assesses are dismissed.

(Order Pronounced in the Court on 07/01/2019)

Sd/-

**(Ravish Sood)**

**JUDICIAL MEMBER**

Sd/-

**(N. K. Saini)**

**VICE PRESIDENT**

**Dated: 07/01/2019**

**\*Subodh\***

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**