

IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR

BEFORE SH. B.R. BASKARAN, ACCOUNTANT MEMBER AND  
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

**ITA No.14/Asr/2019**  
Assessment Year:2015-16

Sh. Sukhdeep Singh  
S/o Dhir Singh  
H.No.317, New Moti Nagar  
Maqsudan, Jalandhar  
[PAN:BWIPS 1122A]  
**(Appellant)**

Vs.

Income Tax Officer  
Ward-1(4), Jalandhar

**(Respondent)**

Appellant by : Sh. Ashray Sarna (Ld. CA)  
Respondent by: Sh. Amar Pal Meena (Ld. DR)

Date of hearing: 28.08.2019  
Date of pronouncement: 09.10.2019

**ORDER**

**PER N.K.CHOUDHRY, JM:**

The instant appeal has been preferred by the Assessee against the order dated 25.10.2018 impugned herein passed by the Ld. CIT(A)-1, Jalandhar u/s 250(6) of Income Tax Act, 1961 (hereinafter called as the 'Act').

**2.** The brief facts of the case are that the Assessing Officer has passed an assessment order dated 22.12.2017 u/s 144 of the Act as *ex-parte* and made the addition of Rs.58,61,000/- (cash deposits of Rs.41,86,000/- and Rs.16,75,000/- in assessee's bank accounts maintained with HDFC Bank and Axis Bank Ltd. respectively) by treating the same from undisclosed sources and added u/s 69 r.w

section 115BB(E) of the Act. The assessment was challenged before the Ld. CIT(A) who though allowed the additional evidence filed by the assessee, however, affirmed the addition made by the Assessing Officer by observing as under:

*“7.2     As per the details submitted, Sh. Dhir Singh, father of the assessee has sold agricultural land on 21.10.2013 for Rs.10,00,000/- and another agricultural land for Rs.23,05,000/- on 28.10.2013. As per copy of sale deeds, the sale consideration having been received by the sellers before the date of registry.*

*During Financial Year 2013-14, there was no other sale of agricultural land or any other declared source of income of the assessee, to explain the deposits made in the bank accounts of the assessee. As per copy of account statements of HDFC and AXIS bank accounts are maintained in the name of the assessee. To explain, these deposits, the Ld. Counsel has filed a account Statement of cash in hand of the assessee. As per the cash hand statement, the assessee was having opening cash in hand of Rs.29,66,560/- basically on account of sale of two agricultural land properties sold by the father of the assessee. Even if this explanation of the assessee is believed, then on 03.04.2014, the assessee has made cash withdrawals of Rs.2,90,000/- from AXIS Bank. On 16.04.2014, there is cash deposit of Rs.1,15,000/- in Axis Bank. There is withdrawal of cash and then there are deposits of cash into the Bank account, this process has been repeated a number of times during the year as explained by cash statement filed by Ld. Counsel during the appeal proceedings.*

*If the assessee was having huge cash-in-hand, then there was no requirement for the assessee to make withdrawals of amounts time and again from the bank accounts. The assessee has made cash deposits repeatedly into his bank accounts. The plea of the assessee that cash deposits were made out of earlier sale proceeds of land and cash withdrawals is without any basis. There is nothing to*

*corroborate the plea of except the statement filed during appeal proceedings by the appellant. Since the assessee has failed to file any cogent and logical explanation in support of the cash deposits made into his bank accounts, therefore, the addition made by the assessing officer is confirmed. This ground of appeal is dismissed.*

8. *Ground of appeal no.4 is general in nature.*

9. *As a result, appeal of the assessee is dismissed.”*

**3.** The assessee filed the instant appeal on the following grounds:-

*“1. That the order passed by the Hon’ble CIT(A) Jalandhar, dated 25.10.2018, is against the law and facts of the case.*

*2. That having regard to the facts and circumstances of the case, Hon’ble CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs.58,61,000/- u/s 69 of the Act as income from undisclosed sources on account of cash deposited in bank without considering the submissions of the assessee and without observing the principles of natural justice.*

*3. That having regard to the facts and circumstances of the case, Hon’ble CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs.58,61,000/- ignoring the fact that assessee had sufficient cash balance to substantiate the cash deposits in his bank accounts.”*

**4.** In nutshell the case of the assessee is that father of the assessee has sold two agricultural lands/properties and deposited the consideration amount in joint account in which the assessee is also joint account holder and thereafter, the assessee's father allowed the assessee to appropriate the sale amount and consequently the assessee circulated the money in its separate account maintained with HDFC Bank. Further the Assessing Officer while making addition did not give any advantage of the cash withdrawals made by the assessee

whereas from the cash flow statement it clearly reflects that the assessee was having sufficient cash balance at all the times the cash deposit being made by the assessee. Though, the Ld. CIT(A) has considered the aforesaid facts however opined with regard to the sale of the properties by the assessee's father that during the Financial Year: 2013-14 there was no other sale of agricultural land or any other declared source of income of the assessee, to explain the deposits made in the bank accounts of the assessee. The Ld. CIT(A) also observed that as per details submitted, Sh. Dhir Singh, father of the assessee has sold agricultural land on 21.10.2013 for Rs.10,00,000/- and another agricultural land for Rs.23,05,000/- on 28.10.2013. As per copy of sale deeds, the sale consideration has been received by the sellers before the date of registry.

**5.** We have perused the translated sale deeds wherefrom it does not reflect that assessee's father has received the consideration amount prior to the Financial Year under consideration and as the assessee has claimed that his father allowed him to use consideration amount exclusively. As the assessment order was passed u/s 144 of the Act, therefore, in our considered opinion justice would be met, if the case be remanded to the file of the Assessing Officer for decision afresh while taking into consideration the sale deeds executed by the father of the assessee and the joint account maintained by the assessee and his father and confirmation from the assessee's father qua transactions carried out by the assessee and the cash flow statement, consequently we set aside the orders passed by the authorities below and remand the case to the file of assessing officer for decision afresh.

**6.**      In the result, the appeal filed by the Assessee stands allowed for statistical purposes.

Order pronounced in the open Court on 09/10/2019.

Sd/-  
(B.R.BASKARAN)  
ACCOUNTANT MEMBER

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

Dated: 09/10/2019.

/PK/ Ps.

Copy forwarded to:

1. The Appellant
2. The Respondent
3. The CIT
4. Then CIT(Appeals)
5. SR DR, I.T.A.T. Amritsar
6. Guard File

True Copy

By Order