

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "बी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

श्री एन.के.सैनी, उपाध्यक्ष एवं श्री संजय गर्ग, न्यायिक सदस्य
BEFORE: SHRI. N.K.SAINI, VP & SHRI , SANJAY GARG, JM

आयकर अपील सं./ ITA NO. 972/Chd/2019
निर्धारण वर्ष / Assessment Year : 2013-14

Smt. Surjit Kaur W/o Haqikat Singh Vill: Lakhnaur, The: Kharar, Mohali	बनाम	The ITO Ward 6(4), Mohali
स्थायी लेखा सं./PAN NO: EPRPK9194H		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं./ ITA NO. 973/Chd/2019
निर्धारण वर्ष / Assessment Year : 2013-14

Shri Bharbhur Singh S/o Bhupinder Singh Vill: Lakhnaur, The: Kharar, Mohali	बनाम	The ITO Ward 6(4), Mohali
स्थायी लेखा सं./PAN NO: JLTPS3392Q		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

आयकर अपील सं./ ITA NO. 974/Chd/2019
निर्धारण वर्ष / Assessment Year : 2013-14

Shri Nirbhay Singh S/o Bhupinder Singh Vill: Lakhnaur, The: Kharar, Mohali	बनाम	The ITO Ward 6(4), Mohali
स्थायी लेखा सं./PAN NO: EKJPS5540E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Smt. Komal Thakur, Advocate
राजस्व की ओर से/ Revenue by : Smt. Geetinder Mann, (JCIT DR)
सुनवाई की तारीख/Date of Hearing : 21/01/2020
उद्घोषणा की तारीख/Date of Pronouncement : 21/01/2020

आदेश/Order

PER N.K. SAINI, VICE PRESIDENT

These three appeals by different assesseees are directed against the separate orders each dt. 26/04/2019 of Ld. CIT(A)-2, Chandigarh.

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

3. Grounds raised in ITA No. 972/Chd/2019 read as under:

1. *The Ld. Commissioner of Income Tax (Appeals)-2, Chandigarh has wrongly dismissed the Appeal of the Appellant treating the land as capital assets for the imposition of capital gain tax on Agricultural land which is outside the Municipal limits and is used for agricultural purposes. The Tax imposed may kindly be deleted.*

2. *The Ld. Commissioner of Income Tax (Appeals)-2, Chandigarh has wrongly allowed to apply the rate of agriculture land as on 01.04.1981 when the Appellant has not owned land. The land was transferred to the Appellant in the financial year 1996-97 by the order of the court and the rate for acquisition of land may be applied when the land was acquired by the Appellant.*

3. *The Ld. Commissioner of Income Tax (Appeals) has not allowed the amount of deduction U/s 54B of Rs. 18,50,000/- for the purchase of land from the amount of sale proceed received by the Appellant. The deduction of Rs. 18,50,000/- may kindly be allowed.*

4. *Any other ground of Appeal which may be taken before the hearing of Appeal with the permission of the, Hon'ble' Income Tax Appellate Tribunal Chandigarh.*

In other appeals similar grounds have been raised, the only difference is in the amount involved.

4. During the course of hearing the Ld. Counsel for the Assessee at the very outset stated that the issue under consideration in all these appeals is squarely covered vide order dt. 16/01/2020 of the ITAT Chandigarh "A" Bench and that the Ld. CIT(A) passed similar orders if even date in respect of all the assesseees including those who earlier filed the appeals before the ITAT in ITA No. 967 to 971/Chd/2019 in the cases of Shri Darshan Singh & Others Vs. ITO, W-6(4), Mohali and the same was disposed off vide aforesaid referred to order dt. 16/01/2020.

5. Ld. Sr. DR in his rival submissions although supported the orders of the authorities below but could not controvert the aforesaid contention of the Ld. Counsel for the Assessee.

6. We have considered the submissions of both the parties and perused the material available on the record. It is noticed that an identical issue having similar facts has already been adjudicated by the ITAT, Chandigarh "A" Bench vide order dt.

16/01/2020 in ITA No. 967 to 971/Chd/2019 in the cases of Shri Darshan Singh & Others Vs. ITO, W-6(4), Mohali and the relevant findings have been given in para 8 which read as under:

8. We have considered the submissions of both the parties and perused the material available on the record. In the present case it is an admitted fact that certain additional evidences which were not available at the time of assessment proceedings were furnished by the assessee to the Ld. CIT(A) under Rule 46A of the Income Tax Rules. Those evidences were forwarded to the A.O. by the Ld. CIT(A) for his comments. However, the A.O. requested not to admit those additional evidences but had not given the reasons for the same and even he had not commented on the merits of the evidences which were admitted by the Ld. CIT(A). In our opinion this matter requires fresh adjudication at the level of the A.O. after considering the additional evidence furnished by the assessee before the Ld. CIT(A), which were in the form of order of Civil Judge, Kharar for possession of land and photo copy of rate of land prevailing in the village where the land was situated and the evidence of construction of house alongwith amount spent on the valuation of approved valuer. Those evidences go to the root of the matter. Accordingly the issue is restored to the file of the A.O. to be adjudicated in accordance with law after providing due and reasonable opportunity of being heard to the assessee.

So respectfully following the aforesaid referred to order the case of present assesseees are restored to the file of the A.O. to be adjudicated as directed in the said order dt. 16/01/2020.

7. In the result, appeals of the assesseees are allowed for statistical purposes.

(Order pronounced in the open Court on 21/01/2020)

Sd/-
संजय गर्ग
(SANJAY GARG)
न्यायिक सदस्य/ Judicial Member
AG
Date: 21/01/2020

Sd/-
एन.के.सैनी,
(N.K. SAINI)
उपाध्यक्ष / VICE PRESIDENT

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