

**आयकर अपीलिय अधिकरण, चण्डीगढ़ न्यायपीठ “एकल सदस्यीय”, चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH
‘SMC’ CHANDIGARH**

**श्रीमती दिवा सिंह, न्यायिक सदस्य
BEFORE: SMT. DIVA SINGH, JM**

आयकर अपील सं./ITA No. 1299/CHD/2020
निर्धारण वर्ष / Assessment Year : 2011-12

Shri Surinder Singh, VPO – Behrampur Zimidara, Distt & Tehsil – Ropar.		The ITO, Ward 2(2), Ropar.
स्थायी लेखा सं./PAN No: ADYPS1992G		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Vineet Krishan, Advocate
राजस्व की ओर से/Revenue by : Shri Ashok Khanna, Addl. CIT
सुनवाई की तारीख/Date of Hearing : 18.03.2021
उद्घोषणा की तारीख/Date of Pronouncement : 06.04.2021

Hearing conducted via Webex

आदेश/ORDER

The present appeal has been filed by the assessee wherein the assessee assails the correctness of the order dated 09.08.2019 of CIT(A)-1, Chandigarh pertaining to 2011-12 assessment year on the following effective ground :

2. (a) That in the facts and circumstances of the case, the Ld. Commissioner of Income Tax (Appeals) gravely erred in upholding the addition of Rs. 5,30,000/- made by the ld. Assessing Officer on account of cash deposited by appellant in bank account from sale of agricultural land.

b) Without prejudice to the above, addition is highly excessive.

2. At the time of hearing, both the ld. AR and the ld. Sr.DR were heard. The relevant facts as emanating from the record are that the assessee was required to explain the deposits made in its bank account.

The assessee explained the same sourced from sale of his immovable property measuring 39 kanal to Smt. Rajinder Kaur W/o Shri Jaimal Singh, Mohalla Civil Hospital, Anandpur Sahib at village Agampur. Since as per the information available in the impugned order, sale price mentioned in the Sale Deed was of Rs. 12,50,000/- plus Stamp Duty of Rs. 75,000/-. The AO considering the deposits made in the bank made an addition of Rs. 18,90,000/- by charging Long Term Capital Gain tax on the sale of agricultural land and addition of Rs. 6,30,000/- and another addition of Rs. 3,50,000/- on account of transfer of amount through cheque in assessee's Punjab & Sind Bank account.

3. In appeal before the First Appellate Authority, the CIT(A) held that the AO erred in making the addition on the grounds of Long Term Capital Gain. Relying upon Certificate of the Tehsildar, Anandpur Sahib, he held that the assessee's case fell under the provisions of Section 2(14)(iii)a) and (iii)(b)(1) of the Act. Similarly addition of Rs. 3,50,000/- was also deleted relying upon the affidavit of Smt. Rajinder Kaur, the purchaser who confirmed that the amount deposited in the bank account was entirely made by her for purchasing the agricultural land. Part relief is found to have been granted accepting the statement, however, addition of Rs. 5,30,000/- was sustained on the grounds of discrepancy in the deposits in bank vis-à-vis Sale Deed.

4. The ld. AR inviting attention to the impugned order submitted that the CIT(A) accepting the affidavit of the purchaser Smt. Rajinder Kaur probably got misled by facts by referring to affidavit of Shri Jaimal Singh

who was the husband of Smt. Rajidner Kaur who was the purchaser and thus holding that Smt. Rajinder Kaur's Affidavit accepting the payments having been made by her proceeded to consider the position of Shri Jaimal Singh.

4.1 In the facts of the present case, it was submitted, both the purchaser as well as the seller have appeared before the AO and confirmed the fact that the specific land was sold at the specific price. Certain amounts were paid to the assessee as advance payments which were deposited in the said bank account. Affidavit of Smt. Rajinder Kaur W/o Shri Jaimal Singh is available on record which has been accepted by the CIT(A). In these peculiar facts, sustaining part addition on the grounds that the affidavit of Shri Jaimal Singh was not reliable it was submitted, is contrary to the position of law as laid down by the Apex Court in 30 ITR 181 (S.C) Mehta Parikh & Co v. CIT namely that part of the document is relied and part of it is ignored and is any way an irrelevant suspicion in the facts of the present case.

5. The ld. Sr.DR relies upon the impugned order. The submissions that both the Purchaser and Seller have appeared and accepted that sale materialized on the price as canvassed by the assessee and was paid by Smt. Rajinder Kaur also stated on an Affidavit by her remains unrebutted on record.

6. I have heard the submissions and perused the material on record. In the facts of the present case, there is no dispute on the aspect that the specific piece of land was sold by the assessee to Smt. Rajinder Kaur

W/o Shri Jaimal Singh. The fact that the purchaser and the seller have repeatedly affirmed the position before the AO and stated so by the Purchaser on an affidavit also is not in dispute. In the facts as they stand, in the absence of any reason for sustaining the addition, the addition is directed to be deleted. A perusal of the assessment order shows that the AO remained focused on ignoring the assessee's claim of situation of the land as being beyond 14 KM from Anandpur Sahib and the fact that the amounts were deposited in assessee's bank account prior to the date of sale. Considering the arguments that part payments were made before the documents were registered affirmed by both the parties nothing much remains in the case. The addition is, accordingly, directed to be deleted. Said order was pronounced at the time of virtual hearing itself in the presence of the parties via Webex.

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

Order pronounced on 06 April,2021.

Sd/-

(दिवा सिंह)
(DIVA SINGH)

न्यायिक सदस्य/Judicial Member

“पूनम”

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

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

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar