

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.

BEFORE SH. RAVISH SOOD, JUDICIAL MEMBER
AND
DR. M. L. MEENA, ACCOUNTANT MEMBER

I.T.A. No. 551/Asr/2019
(Assessment Year: 2011-12)

Tarsem Lal, Shri. Krishan Chand, Vill Saidpur, PO Rahon Distt. Nawanshahr, Doaba PAN: ARFPL3084M	Vs.	Income Tax Officer, Nawanshahr, (Respondent)
(Appellant)		

Assessee by :	Shri Rakesh Joshi, Adv
Revenue by:	Shri Rohit Mehra, DR
Date of Hearing	20/12/2021
Date of pronouncement	21/02/2022

ORDER

PER RAVISH SOOD, JM

The present appeal filed by the assessee is directed against the order passed by the CIT (Appeals)-1, Jalandhar, dated 28.05.2019, which in turn arises from the order passed by the A.O u/s 143(3) of the Income Tax Act, 1961 (for short "Act") dated 31.10.2018 for Assessment Year 2011-12. The assessee has assailed the impugned order on the following grounds before us:

- "1. That the order of the Ld. Commissioner of Income Tax (Appeals)-I, Jal, is against law & facts of the case.

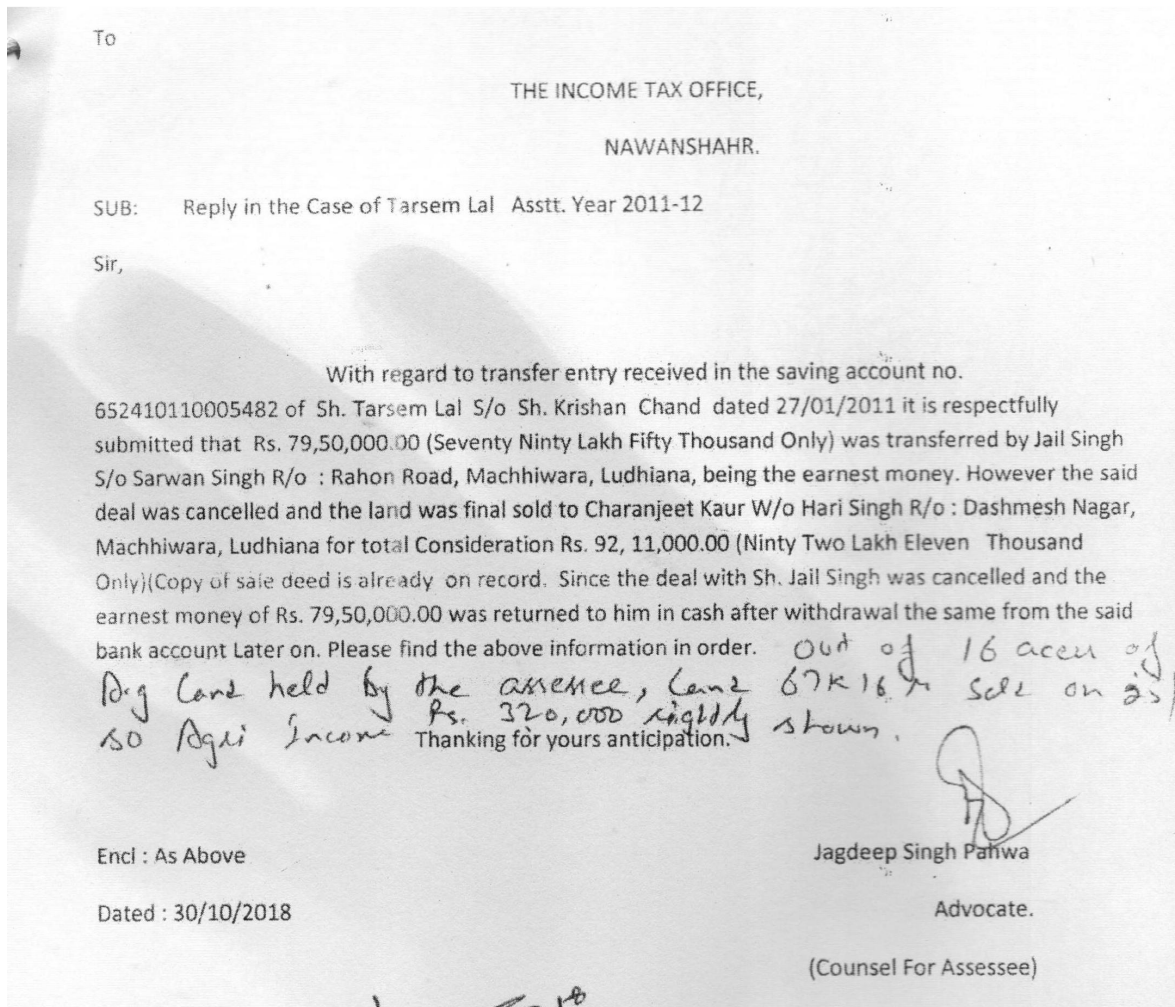
2. That the Ld Commissioner of Income Tax (appeals)-I, Jal, has erred in law & facts of the case in confirming the addition u/s 68 to the tune of Rs. 79,50,000/-
3. That the impugned order under appeal is arbitrary and contrary to law & facts of the case, hence deserves to be cancelled.”

2. Succinctly stated, on the basis of information received that the assessee had during the year under consideration made deposits of Rs. 1,71,59,223/- (79,50,000 + 92,00,000) in his Saving bank account No. 652410110005482 with Bank of India, Machhiwara, the A.O reopened his case u/s 147 of the Act. In response to the Notice u/s 148 of the Act, dated 29.03.2018 the assessee on 09.10.2018 filed his return of income for A.Y 2011-12, declaring an income of Rs. 8,220/- a/w agricultural income of Rs. 3,20,000/-.

3. During the course of the assessment proceedings, the AO in order to verify the nature and source of the aforesaid deposits of Rs. 1.71 crores (approx.), therein called upon the assessee to put forth an explanation as regards the same. In compliance, the assessee with a half-hearted approach came forth with part information/details and on majority of occasions, i.e, over the period i.e 25.06.2018 to 26.10.2018 sought adjournments. However, at the fag end of the assessment proceedings the assessee came forth with a claim that the deposits in his aforesaid bank account were sourced from the sale consideration of his agricultural land admeasuring 67 Kanal-16 marla at Village Kanon, Nawanshahar.

Elaborating on his aforesaid claim, it was submitted by the assessee that he had entered into an "agreement" to sell his aforesaid agricultural land @ Rs. 20,25,000/- per acre and had received the sale consideration from S/shri Jail Singh and Hari Singh on 27.01.2011. Although, in the course of the assessment proceedings the assessee had neither placed on record the Original "agreement to sell" nor a copy of the same, but had thereafter along with his reply dated 16.07.2018 filed a copy of the registered sale deed, dated 25.01.2011 evidencing sale of his aforesaid agricultural land to Smt Charanjeet Kaur W/o. Shri Hari Singh for a consideration of Rs. 92.11 lac. Backed by the aforesaid details, the AO called upon the assessee to explain the nature and source of deposit of Rs. 79.50 lacs (supra) in his bank account a/w supporting evidence. Also the AO called upon the assessee to furnish details as regards the withdrawals that were made by him from his aforesaid bank account. Further, the AO directed the assessee to produce Shri Jail Singh (supra) with whom the "agreement" for sale of land was claimed to have been executed a/w the original "agreement". However, the assessee thereafter came up with a changed version and claimed that the amount of Rs. 79.50 lacs (supra) was received by him from Shri Jail Singh (supra) as earnest money, which was thereafter returned to him in cash after withdrawing from the bank account, as the deal did not materialize and the agricultural land in question was finally

sold to Smt. Chanrajeet Kaur W/o. Sh. Hari Singh. For the sake of clarity the reply of the assessee is culled out as under:-



4. Observing that the aforesaid explanation of the assessee was not backed by any supporting evidence, the A.O rejected the same. It was observed by the AO that not only the change in the stance of the assessee as regards the nature and source of the cash deposit in his bank accounts did inspire any confidence, but also the assessee had failed to prove the creditworthiness of the person from whom the amount in question was claimed to have been received by him. In the backdrop of the aforesaid

facts, the AO, being of the view that the assessee had failed to discharge the primary onus that was cast upon him as regards proving the creditworthiness of the person from whom the amount of Rs. 79.50 lacs (supra) was claimed to have been received, as well as the genuineness of the transaction in question, thus, treated the amount of Rs. 79.50 lacs (supra) as the assessee's income from undisclosed sources. Accordingly, the AO vide his order passed u/s 143(3) r.w.s. 147 of the Act, dated 31.10.2018 assessed the income of the assessee at Rs. 79,58,220/- a/w agricultural income of Rs. 3,20,000/-.

5. Aggrieved, the assessee carried the matter before the CIT(A), who though principally concurred with the A.O, but re-characterized the addition qua the unexplained cash deposits in the bank account that was made by him u/s 68 of the Act, as an addition u/s 69A of the Act., and dismissed the appeal.

6. The assessee being aggrieved with the order of the CIT(A) has carried the matter before us. We have heard the Id. Authorized representatives for both the parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Id. A.R to drive home his contentions. Admittedly, the assessee had, inter alia, received in his bank account an amount of Rs. 79.50 lac (supra) as a

transfer entry from one Shri Jail Singh (supra). As is discernible from the records, the assessee on being called upon to put forth an explanation as regards the 'nature' and 'source' of the aforesaid deposit had come forth with multiple and conflicting claims, viz. (i) that he had sold his agricultural land admeasuring 67 kanal-16 marlas at Village Kanon, Tehsil: Nawanshahar vide an "agreement to sell" @ 20.25 lac per acre to Shri Jail Singh S/o. Shri. Sarwan Singh, Rahon Road, Machhiwara, who thereafter had sold the said land to Shri Hari Singh, and he as on 27.01.2011 was in receipt of the amount in question i.e. 79.50 lac (supra) from S/shri Jail Singh and Hari Singh; and (ii) that he had received the aforesaid amount of Rs. 79.50 lac (supra) from Shri Jail Singh (supra) as earnest money, which however had to be returned to him in cash (after withdrawing from bank account) as the deal did not materialize and the land was sold to Smt. Chanrajeet Kaur W/o. Shri Hari Singh. However, as the assessee had failed to place on record any documentary evidence in support of his claim of having entered into an "agreement" with Shri Jail Singh (supra) and the cancellation of the same, therefore, the lower authorities were not inclined to accept his unsubstantiated claim as regards the source of the cash deposit in his bank account. In fact, a perusal of the orders of the lower authorities reveals that the assessee had neither furnished any confirmation nor the details as to how the money was returned by him to

Shri Jail Singh (supra). On the contrary, the fact that the assessee as on 27.01.20211 had received the sale consideration of Rs. 92 lac from Smt. Charanjeet Kaur (supra), i.e., the person to whom the aforesaid agricultural land was sold by him vide a registered sale deed, in itself militates against his claim of having received on the very same date, i.e, on 27.01.2011 as earnest money an amount of Rs. 79.50 lac (supra) by way of a transfer entry in his bank account from the aforementioned Shri Jail Singh (supra). In our considered view, now when the assessee had vide a registered sale deed dated 27.01.2011 sold his aforesaid agricultural land in question for a consideration of Rs. 92 lac to Smt. Chanrajeet Kaur (supra), and had received the sale consideration vide a transfer entry in his bank account from her on 27.01.2011, therefore, it is beyond comprehension that for the same agricultural land in question he would have received an earnest money of Rs. 79.50 lacs (supra) from Shri Jail Singh (supra). In our considered view, not only the assessee had failed to substantiate the nature of the deposit of Rs. 79.50 lac (supra) in his bank account, but even the explanation offered by him is clearly devoid and bereft of any force and cannot be accepted. Although the aforementioned amount had been received by the assessee vide a transfer entry in his bank account from Shri Jail Singh (supra), however, in the absence of any explanation as regards the 'nature' of the aforesaid receipt, we find no

infirmity in the view taken by the lower authorities who had rightly stamped the same as an unexplained deposit in the hands of the assessee. We, thus, not being able to persuade ourselves to subscribe to the contentions advanced by the Id AR in his attempt to impress upon us that the lower authorities had erred in making the addition of Rs. 79.50 lac (supra) as an unexplained deposit in the hands of the assessee, uphold the same.

7. The **Grounds of appeal Nos. 1 to 3** are dismissed.
8. The **Ground No. 4** being general is dismissed as not pressed.
9. Resultantly, the appeal filed by the assessee is dismissed in terms of our observations recorded hereinabove.

Order pronounced under rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1962, by placing the details on the notice board.

Sd/-
(Dr. M. L. Meena)
Accountant Member

Sd/-
(RAVISH SOOD)
Judicial Member

Dated: 21/02/2022

***A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

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BY ORDER