

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

I.T.A. Nos. 484 & 571/Asr/2018
Assessment Years: 2014-15 & 2015-16

Sh. Surinder Kumar
Prop. M/s Surinder Kumar
Jagdish Rai Rampura Phul

[PAN: AEVPK 4366G]

(Appellant)

Vs. Income Tax Officer,
Ward 1(3), Bathinda

(Respondent)

I.T.A. No. 482/Asr/2018
Assessment Year: 2015-16

Smt. Sudesh Rani
C/o M/s Pirthi Chand
Surinder Kumar Rampura
Phul

[PAN: ACDPR 1195C]

(Appellant)

Vs. Income Tax Officer,
Ward 1(3), Bathinda

(Respondent)

I.T.A. No. 483/Asr/2018
Assessment Year: 2015-16

Sh. Sahil Bansal
Prop. M/s Surinder Kumar
Jagdish Rai Rampura Phul

[PAN: BIZPB 7070B]

(Appellant)

Vs. Income Tax Officer,
Ward 1(3), Bathinda

(Respondent)

Appellant by : Sh. P. N. Arora, Adv.
Respondent by: Sh. Satbir Singh, Sr. DR

Date of Hearing: 24.02.2022
Date of Pronouncement: 02.03.2022

ORDER

Per Dr. M. L. Meena, AM:

These four appeals have been filed by the Assessee against the impugned order dated 31.07.2018 & 18.09.2018 passed by Ld. Commissioner of Income Tax (Appeals), Bathinda, in respect of AYs 2014-15 & 2015-16.

2. At the outset, the learned consul for the assesses submitted that the appellants main grievance is that the learned CIT appeal misstated the facts by holding that tax has been deducted in the name of AOP therefore the assessment has to be framed in the hands of the AOP whereas based on material placed on record, the appellant assessee explained in the course of assessment proceedings and appellate proceedings as well that it was a case of ownership and so the income had to be assessed in the hands of individual co-owners instead of AOP. The AR has filed a copy of agreement between the state warehousing (Pungrain) and Agarwal associates through its co-owner Sri Surinder Kumar (APB page 19 to 28). Here's also filed specimen copy of checks received nine usual names of co-owners Sri Surinder, Ms. Sudesh Rani and for the assessment year Sahil Bansal 2013 – 14 and 2014 – 15(APB page 29 and 30). The AR has also filed copies of form 26AS showing deduction of TDs in the name of

aforesaid individuals for assessment years 2013 – 14, 2014 – 15 and 2015 – 16 (APB page 31 to 49). The appellant has also filed a copy of the assessment order of Agarwal associates as AOP vide which income has been assessed as income from house property for the assessment year 2014-15 and 2015-16 for which Appeals are pending before the CIT appeal. In view of these facts, the Ld. AR has requested that the issue in all the four cases may be restored back to the Ld. CIT appeal to adjudicate the issue correct status whether the assessee be assessed in the hands of AOP or in the hands of individual in order to avoid double taxation.

3. The learned additional CIT DR stands by the impugned order.

4. Heard rival contentions, perused the material facts on record and submissions furnished by the appellant. It is noted that the observation of the lower authorities has no basis to assess the income in the status of AOP. It is also noted that the CIT appeal has rejected the claim of the assessee and their submissions without adequately perusal of the facts and considering the documentary evidences to the claim of assessments in the status of individuals which is against the principles of natural justice. It is admitted fact that in the assessee's case, TDS has been deducted in the individual hands as per the copy of the TDS certificates filed (APB page 31 to 49).

5. The AR contended that the land was purchased in individual capacity by the co-owners having separate property numbers and that too panel assessments were made that is one assessment was made with regards to rental income in and the other in the hands of the AOP M/s Aggarwal associates. He further contended that the TDS was deducted at source individually by PUNGRAIN and not from AOP M/s Agarwal associates as

strongly abjured by CIT appeal on page number three and four of the impugned order. He also argued that the rental income was again assessed in the hands of M/s Agra associates and the matter is pending in appeal before CIT appeal in the case of M/s and all associate. Thus, he requested that the case of co-owners as well as AOP we decided together by the CIT appeal with whom the appeal is pending in the case of Mrs Agarwal associates and so these cases were requested to be remanded back to CIT appeal. For

6. It is evident from the order of the CIT(A) that the reply filed by the assessee has not been considered and disposed of by speaking order before jumping on the decision that tax has been deducted in the name of AOP therefore the assessment has to framed in the hands of the AOP. The Ld. AR for the appellant assessee explained in the course of assessment proceedings and appellate proceedings and before us that these were cases of individual ownership and so the income had to be assessed in the hands of individual co-owners instead of AOP based on material documents placed on record as referred hereinabove in the AR's submissions. Accordingly, the AR has requested that the issue in all these cases may be restored back to the Ld. CIT appeal to be adjudicated together with the same issue of the status of the assessee, either in the hands of AOP disputed before the CIT(A). The AR pleaded that in order to avoid double taxation, the issue of assessing in correct status either in the hands of individual or AOP as being pending before the Ld. CIT(A), be decided by hearing these appeals together by him after granting adequate opportunity of being heard. It is, therefore, considered necessary that the issue is restored back to the Ld. CIT(A) to decide afresh by way of

speaking order. No doubt, the assesses shall cooperate in the fresh proceedings.

7. The next issue regarding disallowance of the deduction claimed by the assesses under section 35 AD of the act is not pressed and hence, all the four appeals are dismissed as unpressed.

8. In the result, all these appeals of the assesses are allowed for statistical purposes in the terms indicated as above.

Order pronounced in the open court on 02.03.2022

**Sd/-
(Anikesh Banerjee)
Judicial Member**

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

*Doc**

Date: 02.03.2022

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T

True Copy
By Order