

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

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

**I.T.A. No. 379/ASR/2019
(Assessment Year: 2010-11)**

Sh. Ramesh Kumar Narula 47-48, Akash Avenue, Amritsar [PAN: ABDPN 1827E] (Appellant)	Vs.	Asstt. Commissioner of Income-tax, Circle-I, Amritsar (Respondent)
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Appellant by :	Sh. K R Jain, Advocate
Respondent by:	Sh. Sunil Gautam, CIT-DR

Date of Hearing :	11.05.2022
Date of Pronouncement:	07.07.2022

ORDER

Per: Anikesh Banerjee, JM:

The instant appeal is directed against the order of Ld. Commissioner of Income Tax (Appeal)-1, Amritsar {in brevity CIT(A)} bearing appeal no. 10176/2017-18

date of order 28.03.2019, order passed u/s. 250(6) of the Income Tax Act, 1961 (in brevity of the Act) for the Assessment year 2010-11. The impugned order was originated from the order of Id. Assistant Commissioner of Income-tax, Circle I, Amritsar (in brevity A.O) passed u/s.143(3)/147 of the Act for the order dated 28.11.2017.

2. The brief fact of the case is that on the basis of Annual Information Report (in brevity AIR) information from Income tax department, the Id. AO started investigation and issued notice u/s. 133(6) of the Act. The assessee had purchased a car amount to Rs.5,74,917/- from M/s. Jay Cee Motors, Amritsar on 26.06.2009. In reply to notice u/s. 133(6), M/s Jay Cee Motors informed that assessee had not purchased any vehicle during the financial year. The Id. A.O. further issued notice and informed that the car-dealer sold one vehicle on 26.06.2009 on the PAN: ABDPN1827E. In reply M/s Jay Cee Motors informed that the vehicle was sold to Sh. Gaurav Arora S/O. Sh. Ramesh Kumar Narula bearing address 47-48,, Akash Avenue, Amritsar but not to assessee. The Assessing Authority confirmed that vehicle was purchased by the assessee in his

sons' name and the payment was made by the assessee in cash from unexplained source as confirmed by the Sh. Jyoti Sharma Manager M/s. Jay Cee Motors. The assessee was unable to explain the source of investment. The amount of Rs.5,74,917/- was added back to the total income of the assessee. Aggrieved assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) adjudicated the appeal in favour of revenue. Being aggrieved assessee filed an appeal before the ITAT.

3. During the appeal hearing the Id. Counsel of the assessee filed a paper book, containing pages from 1 to 8, which is kept in the record. As per the individual transaction statement in APB page 8, the name of assessee's son is reflected related to the transaction for purchase of car on 26.06.2009 amount of Rs.5,74,917/-. As per the Id. Counsel of the assessee, the assessee did not purchase the vehicle. Mr. Gaurav Arora had purchased the vehicle. In this reference the assessee filed documents related to copy of Certificate issued by M/s. Jay Cee Motors, Registration Certificate of the Car which are containing in the APB from page no 4 to 7.

4. The Id. CIT-DR weighment the argue and relied on the order of Revenue Authority. As per Id. CIT-DR, the assessee was given opportunity in cross examination, but the assessee has not made any reply. In this respect the Id. CIT-DR relied on the para 5 of the order of the Id. CIT(A) which is extracted as follows:

"Therefore, a show cause notice was issued to the assessee but assessee did not reply. Therefore in view of the above certificate submitted by M/s. Jaycee Motors vide AZ1SEP17 dated 21.09.2017 it was crystal clear that assessee did not have any explanation of the cash payment to M/s. Jaycee Motors and clearly the car was purchased by Sh. Ramesh Kumar Narula alia Sh. Ramesh Kumar Arora in the name of his son Sh. Gaurav Arora and payment had been made by Sh. Ramesh Kumar Narula in cash as explained by Sh. Jatin Sharma, manager, M/s. Jaycee Motors, Amritsar and the assessee had preferred not to explain the source of the said cash payment. Accordingly, the AO was justified in making the addition of Rs.574,919/- to the total income of the assessee which is confirmed.

(v) The ground of appeal no.6 is that assessee was not given opportunity to cross examine. In fact the AO had confronted the assessee with the certificate from M/s. Jaycee Motors vide letter no. AZ1SEP17 dated 21.09.2017 but the assessee chose note to reply, accordingly the ground of appeal is dismissed."

5. We heard rival submissions and relied on the documents filed in the record. The assessee first confronted about the purchase of car from the dealer. The Id. Counsel of the

assessee primarily denied on the facts that no purchase was made by the assessee from M/s. Jay Cee Motors. In AIR the informations are accumulated on the basis of PAN data. The name of Mr. Gaurav Arora related to purchase of car reflected in assessee's AIR because the PAN of the assessee was used for purchasing the car during the financial year. Mr. Gaurav Arora and assessee are in relation as Son and Father. Amount was invested in cash. The source of the investment of cash was not explained before the Revenue, both by father & son. The information gathered by the Id. AO is sufficient to prove that vehicle was purchased in cash with the value of Rs.5,74,917. But, utilisation of PAN data in AIR. was not properly verified through the cross examination with the vehicle dealer with the assessee and his son. The reasons of use of PAN in AIR was not properly clarified. Therefore we setting aside the issue to Id. CIT(A) for further adjudication denovo. On other hand, the assessee should get reasonable opportunity for representing his matter.

6. In the result the appeal of the assessee is allowed for statistical purchases.

Order pronounced in the open court on 07.07.2022

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

Sd/-
(Anikesh Banerjee)
Judicial Member

Copy of the order forwarded to:

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

True Copy

By Order