

**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. No. 144/ASR/2017
(Assessment Year: 2001-02)**

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| Sh. Harjit Singh S/o Sh. Iqbal Singh Vill. Lehal, P.O. Fateh Nangal, Dhariwal, Distt. Gurdaspur PAN: AWQPS 2557N (Appellant) | Vs. | Income Tax Officer Gurdaspur (Respondent) |
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| Appellant by | None (Written submission) |
| Respondent by | Sh. S. M. Surendranath, Sr. DR |

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| Date of Hearing | 18.05.2022 |
| Date of Pronouncement | 12.07.2022 |

ORDER

Per: Anikesh Banerjee, JM:

The instant appeal is directed against the order of Ld. Commissioner of Income Tax (Appeal)-2, Amritsar {in brevity CIT(A)} bearing appeal no. 643/2008-09

Date of order 03.11.2016, passed u/s. 250(6) of the Income Tax Act, 1961 (in brevity of the Act) for the Assessment year 2001-02. The impugned order was originated from the order of Income Tax Officer, Gurdaspur (in brevity A.O) passed u/s.143(3)/147 of the Act date of order 18.12.2008.

2. The assessee has raised the following grounds which is extracted as follows:

Grounds of Appeal

1. *That the assessment Order passed by Ld. Assessing Officer u/s. 143(3)/147 of the Income-tax Act, 1961, as well as the appellate order passed by Worthy CIT(A) are illegal, arbitrary and contrary to the facts on record and this illegality pervades over all other grounds of appeal.*
2. *That the Id. Assessing Officer has erred on facts and in law by making addition of Rs.60000 on account of denying the outstanding payment received by the assessee from S. Kuldeep Singh which was used in making investment for purchase of alleged property and the Worthy CIT(Appeals) has further erred on facts and in law by confirming the addition and has failed to record the finding on this ground of appeal.*
3. *That the Ld. Assessing Officer has erred on facts and in law by making addition of Rs.150000 on account of denying the exact source of funds which was out of inherited amount from family as per evidence on record and the Worthy CIT(Appeals) has further erred on facts and in law by confirming the addition and has failed to record the finding on this ground of appeal.*
4. *That the Ld. Assessing Officer has made the assessment/reassessment at the flag end of limitation and that too in a very hasty manner without affording sufficient time to the assessee for establishing the conclusiveness of the evidence*

and the Worthy CIT(Appeals) has failed to record the finding on such issues and as such the assessment suffers from the Principal of natural justice.

5. *That the appellant craves leave to add, amend or withdraw any new ground or existing ground of appeal or after the commencement of hearing of the appeal.*

2.1. The Additional ground of assessee is extracted as follows:

"The assessment framed in void ad initio as the notice under section 148 had been issued after lapse of four years which could be issued only with the prior satisfaction of the worthy Principal Commissioner of Income tax under section 151(1) of the Income tax Act, 1961 and not with the satisfaction of the Addl.CIT, Range 6, Pathankot."

3. The brief fact of the case is that the assessment was completed u/s. 143(3)/147 of the Act. As per the assessee AO had failed to record its findings for reopening of the case and also violated the provisions of section 151(1) related to approval from Principal CIT. The Id. AO took the approval for reopening of the case from Id. Additional Commissioner of Income tax, Range-V1, Pathankot. Accordingly assessee filed an additional ground before ITAT. The additional ground is important for adjudicating the legal issue related to jurisdiction of issuance of notice u/s. 148. The extract from assessment order page 1 is as follows:

" Proceedings u/s. 147 of the I.T. Act, 1961 were initiated in this case by the issue of notice u/s. 148 and after recording the reason for this action and obtaining the prior approval of the Addl. Commissioner of Income Tax, Range-VI, Pathankot. The notice u/s. 148 was duly served upon the assessee on 28.02.2008. Since the assessee did not furnish his return of income in response to notice u/s. 148 as notice u/s. 142(1) of the Income tax Act was issued on 12.08.2008. In response to this the assessee came forward and filed his return of income on 06.10.2008 declaring total income of Rs.46573/- plus income from agriculture at Rs.18000/-. The case was process on 13.10.2008.

4. In fact the addition was made by the Id. AO amount to Rs.60,000/- on account of outstanding payment receipt from Sh. Kuldeep Singh and Rs. 150000/-, which was received from brother Inderjit Singh on account of sale of shop acquired during the family settlement. Relating to payment of Rs.60000/- Mr. Kuldeep Singh was appeared and statement was recorded. Mr. Kuldeep Singh denied the fact relating to the payment of 60000/- to assessee. The addition was made by Id. AO in total income of the assessee accordingly.

4.1 Relating to addition of Rs.150,000/- brother of assessee Mr. Inderjit Singh accepted the payment. Also the amount was

mentioned in the family division. But the credentials of the brother for payment of amount was not proved before the Revenue Authorities. Accordingly addition was made with the total income of the assessee.

5. During the hearing before ITAT, the assessee filed written submission along with the additional ground. He requested through his counsel for accepting the matter on the basis of written submission. Considering the above mentioned discussion here we accepted the additional evidence with the consent of Id. DR. For other two factual issue the assessee should be further adjudicated before the Id. CIT(A). The issues are kept open for denovo adjudication before the Id. CIT(A). Considering the above discussions, we are setting aside all grounds including additional ground of the assessee before the Id. CIT(A) for denovo adjudication. The assessee is directed to produce all relevant documents before the Id. CIT(A) for fresh adjudication. The reasonable opportunity of hearing should be granted to assessee for his case.

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

Order pronounced in the open court on 12.07.2022

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