

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CHANDIGARH BENCH 'B', CHANDIGARH**  
**BEFORE SMT.DIVA SINGH, JUDICIAL MEMBER  
AND SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

**ITA No. 178/Chd/2021**  
(Assessment Year: 2018-19)

Shri Meet Pal Singh H.No. 111, Model Gram Extn. Ludhiana	बनाम	The Asstt. CIT CC-1, Ludhiana
स्थायी लेखा सं./PAN NO: APNPS4960F		

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate

राजस्व की ओर से/ Revenue by : Shri Sarabjeet Singh, CIT DR

सुनवाई की तारीख/Date of Hearing: 26/07/2022

उदघोषणा की तारीख/Date of Pronouncement: 30/08/2022

**आदेश/ORDER**

**Per Vikram Singh Yadav, Accountant Member:**

This is an appeal filed by the assessee against the order of Ld. CIT(A)-5, Ludhiana dt. 24/06/2021 wherein the assessee has raised the following grounds of appeal:

"1. That the Ld. CIT(A) has erred in confirming the addition of Rs. 12,43,500/- on account of certain loose slip found during the course of search as per para 4.2 of the order.

2.a). That the Ld. CIT(A) has erred in confirming the addition on account of acquisition of jewellery to the tune of Rs.11,17,400/-, against the addition of Rs. 17,72,740/- on account of alleged investment in jewellery as made by the Assessing Officer as per para 4.7 of the order.

b). That the Ld. CIT(A) has failed to appreciate the fact that the jewellery as found during the course of search was as per Board circular and due to some inadvertent mistake by the counsel during assessment proceedings it was overstated, which was clarified to the CIT(A) but the same has not been considered properly by the CIT(A).

c). That there is a documentary evidence of the valuation made by the departmental valuer, mentioning the quantity of jewellery found during the course of search, which have been ignored by the Assessing Officer and CIT(A)

*and hence jewellery found being within the Board circular, no addition on account of excess jewellery was called for.*

*3. a) That the Ld. CIT(A) has erred in sustaining the addition of Rs. 32,35,000/-, out of addition of Rs. 42,95,573/- and Rs. 17,82,250/- on account of alleged non-disclosure of work-in-progress in the 'Income tax return' and which is against the facts and circumstances of the case as per para 4.8 of the order.*

*b). That both the Assessing Officer and CIT(A) have failed to appreciate that complete evidences of the amount utilized for work in progress alongwith sources have been given during the course of assessment proceedings and before the Ld. CIT(A) and which have been ignored, without assigning any valid reason.*

*c). That the Ld. CIT(A) has failed to appreciate that there is no column in ITR to declare the 'work in progress' and that the statement of affairs was drawn and filed before the Assessing Officer during the course of assessment proceedings and also before the Ld. CIT(A), which should have been considered by the CIT(A) and hence the part addition as sustained deserves to be deleted."*

2. Briefly the facts of the case are that a search and seizure action was conducted at the office and residential premises of the assessee on 02/11/2017. Subsequently the assessee filed his return of income on 31/08/2018 declaring total income of Rs 5,93,110/-. After issue of notice under section 143(2) and 142(1) of the Act and taken into consideration the information and documents submitted by the assessee, the assessment was completed under section 143(3) dt. 27/12/2019 at an assessed income of Rs. 1,24,31,710/-. Being aggrieved the assessee carried the matter in appeal before the Ld. CIT(A) and got part relief. Against the addition sustained by the Ld. CIT(A), the assessee is in appeal before us.

3. In ground No. 1, the assessee challenged the sustenance of addition of Rs. 12,43,500/- on account of certain loose slip found during the course of search.

3.1 In this regard, the Ld. AR submitted that the assessee had started business of civil construction only during the F.Y. 2017-18 relevant to the impugned assessment year and as on 31/03/2018, only two projects were undertaken namely Vrindavan City and Budget Home Project, Ludhiana and both these projects were under construction and no income had accrued on such work in progress. It was further submitted that the assessee filed his return of income in ITR Form -3 as the assessee was not maintaining

books of account. It was submitted that since no income has arisen on the construction project either on account of sale or on account of any other source, the same was not disclosed in the return of income. It was submitted that since no sales have taken place, the assessee was not required to maintain his books of account as per Section 44AA of the Act. It was submitted that the Ld. AO as well as the Ld. CIT(A) has duly confirmed the validity of the books of the assessee and accepted the statement of affairs and investment reflected therein. Accordingly, there arises no doubt about the validity of the liability arising from the same business which was on account of purchase of construction material. It was submitted that seized documents has been believe to be correct and the liability reflected in the statement of affairs corresponded with the such sized document and hence the same needs to be accepted and the addition so sustained by the Ld. CIT(A) be deleted.

3.2. Per contra, the Ld. CIT/DR taken us through the findings of the Ld. CIT(A) and it was submitted that during the course of appellate proceedings, the assessee was asked to supply the copy of the bill and ledger account to show that the payment had been made in the subsequent financial year and also the source of the said payments. In reply, it was submitted that the payment are on account of bricks, cement, raita and bajri but it was not possible to give confirmation letter etc. As per the Ld. CIT(A) neither any bill has been filed nor the source of the payments has been explained to substantiate the claim that these were paid out of explained sources of the assessee during the next financial year and in view of the failure on the part of the assessee to substantiate its claim, it was submitted that the Ld. CIT(A) has rightly sustained the addition made by the AO. It was accordingly submitted that there is no infirmity in the findings of the Ld. CIT(A) and same deserves to be confirmed and the ground of the appeal taken by the assessee be dismissed.

3.3. We have heard the rival contentions and perused the material available on the record. It is an admitted position that the loose slips found during the course of search relates to certain purchases made by the assessee in respect of his real estate projects. The AO has made the addition holding that these are undisclosed purchases made by the assessee in respect of his undisclosed projects not reported in the return of income.

In other words, the addition is made by way of incurrance of certain expenditure which is not disclosed in the return of income. The contention of the assessee is that he has filed his return of income disclosing his other income, however, given that these real estate projects were started during the financial year itself, no sales have been booked, he has barely booked a liability shown under capital work-in progress and has not made any payment discharging such liability, there was no occasion to report such liability for tax purposes more so where there is no requirement to report the same while filing the return under presumptive basis. Further, it has been contended that during the course of assessment proceedings, balance sheet duly disclosing the capital work-in-progress and amount payable towards such purchases was duly submitted. The Id CIT(A) has not accepted the contention of the assessee holding that no bills have been submitted in respect of purchases besides the assessee has failed to explain the source of making the payment in the next financial year. In our view, where the liability towards such purchases has been shown under the head "capital work-in progress" which corresponds to document found during the course of search and which continues to remain outstanding (and payment not being made during the year) in the books of accounts at the year end, it is a case where the assessee has neither claimed the expenditure during the year under consideration nor any payment has been made during the year under consideration, the question of disallowance or making an addition towards the same doesn't arise and is hereby directed to be deleted. In the result, the ground of appeal is allowed.

4. In Ground No. 3 the assessee has challenged the sustenance of addition of Rs. 32,35,000/- on account of non disclosure of work-in-progress in the Income Tax Return.

4.1 In this regard the Ld. AR submitted that the addition had been made by the AO on account of the source of investment in the proprietorship concern of Rs. 9,35,000/- remaining unexplained and in addition to this, amount of Rs. 23,00,000/- from the total amount of unsecured loans of Rs. 29,00,000/- remains unexplained/ unaccounted and he accordingly, treated the source of capital contribution as unexplained/ unaccounted.

4.2. In this regard, it was submitted that Rs. 9,35,000/- is on account of the income earned by the assessee during the year and the same has been duly declared in his Return of Income. The gross receipts from the legal profession being Rs. 8,39,600/- as per page 2 of the Paper Book out of which Rs. 4,19,800/- has been shown as profit and the agriculture income being Rs. 4,40,000/-. It was submitted that where the return of the income as filed by the assessee has been duly accepted by the Ld. AO as well as Ld. CIT-(A), there arises no iota of doubt as to treating the source of Rs. 9,35,000/- as unexplained.

4.3 For the unsecured loans amounting to Rs. 29,00,000/-, the amount of Rs. 6,00,000/- has been accepted on the basis that the same has been disclosed under the head 'Unsecured Loans' in the statement of affairs submitted during the course of assessment proceedings. It was submitted that in the statement of affairs as on 31.03.2018 as submitted during the assessment proceedings, the balance in the capital account comes out to be Rs. 41,06,000/-. It was submitted that for the amounts which have been received in the bank account of M/s. M.P. Builders and Developers (Page No. 111-127 of the Paper Book), the amount of Rs. 3,00,000/- received from M/s. Shri Tulsii Associates Prop. Lalit Bansal on 05.07.2017 at page no. 117 of the Paper Book and Rs. 3,00,000/- received from M/s. Suju Impex Pvt. Ltd. on 11/08/2017 at page no. 122 of the Paper Book, the disclosure has been given under the head 'UNSECURED LOANS' and the amounts which have been received in the saving bank account of the assessee (Page no. 93-110 of the Paper Book), the same has been shown as capital contribution of the assessee in the firm M/s. M.P. Builders and Developers. It was submitted that the amount have been received as under:

<i>Name of the Lender</i>	<i>Bank Account in which the amount received</i>	<i>Date on which amount received</i>	<i>Amount</i>	<i>Relevant Page of Paper Book</i>
Raja Ingots	6000085803	22.06.2017	10,00,000/-	97
Puneet Pal Singh	6000085803	10.07.2017	3,00,000/-	98
Rakesh Sachdeva Prop. Sunny Tex Fab	6000085803	27.12.2017	10,00,000/-	104
TOTAL			23,00,000/-	

4.4 It was submitted that the amount received by the assessee in his saving bank account has been used for the expenditure related to the construction business of the

assessee and whenever required, the funds were transferred to the account of M/s. M.P. Builders. The copy of the ITR and Bank Statements of the above lenders has also been placed at page no. 69-92 of the Paper Book. (Raja Ingot (Page 70-72), Rakesh Sachdeva Prop. Sunny Tex Fab (Page no. 73-78) & Sh. Puneet Pal Singh (Page 86-89). Further, it is also submitted that the source of capital contribution and the loans received has never been doubted by the Ld. AO and CIT-(A). Therefore, the source for the investment in the M/s. M.P. Builders stands explained and hence, no additions are called for.

4.5. Per contra the Ld. CIT/DR taken us through the findings of the Ld. CIT(A) and submitted that the assessee during the appellate proceedings could not filed any documentary evidence regarding Rs. 9.35 lacs claimed as cash deposited from professional receipt and agriculture income and in the absence of the same, the said source was not found genuine and the amount of Rs. 9.35 lacs remained unexplained. Regarding loan of Rs. 10 lacs from Raja Ingots, Prop. Shiv Kr. Bajaj, Rs. 10 lacs from Rakesh Sachdeva, Prop. Sunny Tex Fab, and Rs. 3 lacs from Puneet Pal Singh, it was submitted that the same are not appearing in the balance sheet of M/s M.P. Builders & Developers as on 31/03/2018. Hence, these amounts were rightly considered as unexplained, unaccounted investments in the hands of the assessee. It was accordingly submitted that the addition to the extent of Rs. 32,35,000/- was rightly sustained by the Ld. CIT(A) and same deserves to be confirmed.

4.6. We have heard the rival contentions and perused the material available on the record. It is noted that the AO has made the addition towards unexplained investment in two real estate projects to the tune of Rs 42.95 lacs and Rs 17.82 lacs respectively. On appeal, the Id CIT(A) has sustained the addition to the tune of Rs 32.35 lacs which is under challenge before us. Firstly, regarding Rs 9.35 lacs shown as receipts from professional activities and from agricultural income, the Id CIT(A) has not accepted the same holding that no documentary evidence has been filed in support thereof which has now been contested by the assessee stating that the said receipts have been duly disclosed in the return of income and has been accepted by the AO. We agree with the contention of the assessee that where the nature and source of receipt has been

duly accepted by the Revenue, there is no basis to deny the claim of the assessee as the source of investment in his real estate projects and the addition of Rs 9.35 lacs is hereby directed to be deleted.

4.7 Regarding Rs 23 lacs which is claimed to be receipts on account of unsecured loan from three persons, the claim of the assessee has been denied by the Id CIT(A) holding that these transactions are not reflected under the head "unsecured loans" in the balance sheet as on 31.03.2018. The claim of the assessee however has been that these unsecured loans were taken in personal capacity by the assessee and the amount has been received in his saving bank account and thereafter, these amounts have been transferred by way of capital contribution to the account of M/s M.P Builders & Developers and has been shown under the head "capital contribution" and form part of Rs 43.66 lacs capital contribution which is not under dispute. On perusal of the documents available on record, we believe that the assessee has sufficiently explained the source of investment in his real estate projects by way of loan taken in personal capacity which has been invested and show as capital contribution. In the result, the addition of Rs 23 lacs is directed to be deleted. In the result, the ground of appeal is allowed.

5. In Ground No. 2, the assessee has challenged the sustenance of addition of Rs. 11,17,400/- on account of alleged investment in jewellery. In this regard, it was submitted that the assessee is living in a joint family, wherein, he resides along with his parents, wife and 2 sons and the jewellery was received in inheritance as well as during the occasion of marriage and the jewellery as found during the course of search action is well within the limits as provided for in the CBDT Instruction No. 1916 dated 11.05.1994. The total limit of jewellery when applied in the case of the assessee comes out to be 1400 grams as per page 20 of the order of CIT(A).

5.1 It was submitted that the total weight of Gold Jewellery as found during the search action was 1315 gms as mentioned in the report of the Department Valuation Officer, the same has been duly mentioned in the documentary evidence of the valuation as made by the department valuer as per the copy of the Panchnama at page no 18-20 of the order of CIT(A). The copy of the Panchnama along with the

valuation report of the Department Valuer Officer is submitted at page no. 52-68 of assessee's paper book. However, the Counsel of the assessee during the assessment proceedings has erroneously overstated the same and the assessment was framed in accordance with the same. The detail of jewellery is tabulated as follow:

S.No.	Location	Jewellery in Gold Weight	Remarks
1.	Residential Premises	182 Grams (Equated Rs. 5.5 Lacs/ Rs. 3020 per gram) [Relevant Page-67]	Joint Family residing at the house: Including the Assessee's both parents, wife and 2 sons.
2.	Locker No. 176	587 Grams [Relevant Page 56]	Locker in the name of the assessee and his mother Bhupinder Kaur. Jewellery declared as belonging to the joint family in the Panchnama. (Only one item of 53 Grams seized by the search party from Locker No. 176)
3.	Locker No. 37	546 Grams [Relevant Page 60]	
	TOTAL	1315 Grams	

5.2 It was submitted that the same fact was clarified before Id CIT(A), but the same has not been considered properly by the Id CIT(A). It was accordingly submitted that the said plea may be considered as apparent from the departmental record itself, that the jewellery is well within the limits prescribed in the Board Circular. Hence, no addition is called for.

5.3. Per contra, the Ld. CIT/DR taken us through the findings of the Ld. CIT(A) and it was submitted that even as per the CBDT Circular, the assessee is entitled for the benefit of 1400 grams out of total jewellery of 1770 grams and the balance jewellery of 370 grams is to be considered as unexplained as the assessee has not been able to produce any bill or any other documents to substantiate its claim and the fact that the Wealth Tax Return has not been filed disclosing any such jewellery, the addition of Rs. 11,17,400/- has been confirmed by the Ld. CIT(A) applying the rate of Rs. 3020 per gram as on the date of valuation in respect of 370 grams which was found unexplained. It was accordingly submitted that there is no infirmity in the findings of the Ld. CIT(A) and the same be confirmed.

5.4 We have heard the rival contentions and purused the material available on record. It has been contended that the value of jewellery found during the course of search is well within the limits as provided in CBDT Instruction no. 1916 dated 11.05.1994

as corroborated by the copy of panchnamas and department valuer report. The panchnamas and the department valuer report are part of the assessment records and the same can be verified to examine veracity of the contention so raised by the assessee. We accordingly set-aside the matter to the file of the AO to examine the said contention as per law after providing reasonable opportunity to the assessee. In the result, the ground of appeal is allowed for statistical purposes.

6. In the result, the appeal of the assessee is disposed off in light of aforesaid directions.

Order pronounced on 30/08/2022.

Sd/-  
**(DIVA SINGH)**  
न्यायकि सदस्य/Judicial Member

Sd/-  
**(VIKRAM SINGH YADAV)**  
लेखा सदस्य/Accountant Member

**Dated: 30/08/2022**

**AG**

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

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