

**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.673/Asr/2019
Assessment Year: 2011-12**

Harvinder Singh S/o Gurdeep Singh Green Enclave, Channi Street, Kotkapura, Punjab. [PAN:-AIIPS2932B] (Appellant)	Vs.	ITO, Ward-III(3), Faridkot. (Respondent)
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Appellant by	Sh. Keshav Kataria, Adv.
Respondent by	Ms. Amanpreet Kaur, Sr.DR.

Date of Hearing	20.09.2022
Date of Pronouncement	26.09.2022

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal was filed by the assessee against the order of the Id. Commissioner of Income Tax(Appeals), Bathinda, [in brevity the CIT(A)] bearing appeal no.320/2018-19, date of order 21.08.2019, the order passed u/s 250(6) of

the Income Tax Act 1961, [in brevity the Act] for A.Y. 2011-12. The impugned order was emanated from the order of the Id. Income Tax Officer, Ward-3(3), Faridkot, (in brevity the AO), order passed u/s 143(3)/147 of the Act date of order 05.12.2018.

2. The brief fact of the case is that during the assessment proceeding the Id. AO added back undisclosed income with the total income of the assessee amount of Rs.4 lac. The assessee deposited in bank account cash amount to Rs. 10lac. Out of total cash deposit, the assessee had withdrawn cash 4,80,000/-. For explanation of rest amount of cash deposit the assessee has taken plea that cash was deposited from sale of Maruti Zen Car, Model 2005 at amount of Rs. 3,50,000/- and the cash gift from father out of family settlement amount of Rs. 5 lac. The Id. AO revealed the sale of car at amount of Rs 1,20,000/-. Explained cash deposit was amount to Rs. 4,80,000/-. So, total deposit in bank account was accepted by the Id. AO amount to Rs. 6,00,000/-. The balance amount of Rs. 4,00,000/- (Rs.10,00,000/- - Rs. 6,00,000/-) was treated as explained cash deposit & was added back with total income of the assessee. The assessee filed an appeal before the Id. CIT(A). The Id. CIT(A) upheld the order of the Id. AO.

3. Aggrieved assessee filed an appeal before us.
4. The Id. Counsel of the assessee vehemently argued and placed that the assessee sold a car of 5 years old, January 2005 model amount of Rs.3,50,000/-. The revenue authority did not consider the sale value due to abnormal high the amount & sale value was restricted to Rs.1,20,000/-.
- 4.1 In second issue, the assessee received a gift from his father for Rs.5 lac. The source of the gift was that the property was sold with a value of Rs.20 lac and assessee's father had received Rs.5 lac as advanced. The said amount was gifted to son.
5. The Id. Sr. DR relied on the order of the Id. CIT(A) and the relevant para is extracted below:

The appellant had submitted the copy of affidavit that Maruti Zen Car of Model 2005 was sold by assessee for Rs. 3,50,000/-.The sale of Maruti Zen Car took place in F.Y. 2010-11 therefore in that year the car was only five years old. The cost of new Maruti Zen Car of different models ranges from Rs. 3,50,000/- to Rs. 5,50,000/-.Assessee has not spelt out the model of the car and therefore the purchase price of the car cannot be guessed. Assuming that the car of the appellant was

of base model costing Rs. 3,50,000/-, then the Assessing Officer is justified that the Maruti Zen Car five years old cannot be sold for Rs. 3,50,000/-. Therefore, the estimation of the sale price of the Maruti Zen Car at Rs. 1,20,000/-by the Assessing Officer is justified and upheld.

The Assessing Officer did not allow any benefit of amount received in lieu of family settlement on the ground that it is handwritten agreement according to which amount of Rs. 5,00,000/- was shown to have been received on 24/04/2010. The photocopy of handwritten document is neither authenticated document nor it reveals that the above amount was given to the assessee.

In the written submission filed during appeal proceedings that he received Rs. 5,00,000/- from his father. In support he filed copy of agreement of sale dated 24/04/2010 whereby Sh. Gurdip Singh S/o Sh. Jasvir Singh R/o Wara Darka Thesil & Distt. Faridkot agreed to sale his agriculture land measuring 10 kanal 15marla for Rs. 20,00,000/- to Sh. Gurdev Singh S/o Sh Pakhar Singh R/o Wara Darka, Distt. Faridkot and that he had received Rs. 5,00,000/- as earnest money and balance amount to be received at the time of registry on 24/04/2010.

Said agreement of sale does not show that the father of the assessee Sh. Gurdip Singh had given Rs. 5,00,000/- to the appellant. Therefore, the said claim of the appellant is dismissed.

Accordingly, the Assessing Officer is justified in accepting the source of cash deposit at Rs. 4,80,000/- and Rs. 1,20,000/- only and the balance amount of Rs. 4,00,000/- added by the Assessing Officer is confirmed.”

6. We heard the rival submission and considered the documents available in the record. During hearing before ITAT, the counsel produced an agreement for sale of property. The language of the agreement was in *Gurmukhi*. The said document was read and verified by the Id. Sr. DR before the court. But the grievance of the Id. CIT(A) is that in agreement of sale the advance amount was mentioned but there is no such evidence for gift of Rs. 5 lac to the son. Related to valuation of the car a suo motu valuation was taken by the assessing authority. There is no comparable in relation to the valuation of the sale of car. In both the issue, the assessee should get a further opportunity to adjudicate the issue. We direct that the matter should be sent back to the Id. AO for further adjudication. Needless to say, the assessee

should get a reasonable opportunity of hearing for filing the evidence and to substantiate its claim.

7. In the result, the appeal of the assessee bearing **ITA 673/Asr/2019** is allowed for statistical purpose.

Order pronounced in the open court on 26.09.2022

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

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