

**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.619& 434/Asr/2018
Assessment Year: 2013-14 to 2014-15**

Gaurav Narula, 49- PrakutiBungalow, Bhopal, Tal DaskroiAhemdabad. [PAN: AJMPN4131A] (Appellant)	Vs.	Dy. Commissioner of Income, Central Circle, Amritsar. (Respondent)
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**I.T.A. No.435/Asr/2018
Assessment Year: 2014-15**

Sh. Ankush Narula, S/o Ashok Narula, D-47, Ranjit Avenue, Amritsar. [PAN: AJMPN4132D] (Appellant)	Vs.	Dy. Commissioner of Income, Central Circle, Amritsar. (Respondent)
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Appellant by	None
Respondent by	Sh. Rohit Mehra, CIT.DR

Date of Hearing	25.08.2022
Date of Pronouncement	20.10.2022

ORDER

Per: Bench:

The instant appeals of the two assesseees are directed against the order of the Id. Commissioner of Income Tax(Appeals)-5,Ludhiana, [in brevity the CIT(A)]the order passed u/s 250 (6) of the Income Tax Act 1961, [in brevity the Act] for A.Y. 2013-14& 2014-15.The impugned ordersareemanated from the order of the Id. Dy. Commissioner of Income Tax, Central Circle, Amritsar(in brevity the AO) order passed u/s 144r.w.s. 143(3)of the Act.

2. At the outset, the assesseees had filed 03 appeals on the same factual backdrops. For the sake of brevity,we are passing the composite order and taking the ITA No. 434/Asr/2018 as a lead case.

ITA No. 434/Asr/2018

3. The assessee has taken the following grounds which are reproduced as below:

“1. That the order passed by the Hon’ble CIT(A) dated 11.05.2018 is against the law and facts of the case.

2. That having regard to the facts and circumstances of the case, Hon’ble CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs. 4,09,500/- on account of alleged unexplained deposits in bank account coupled with alleged

unexplained expenditure, without considering the fact that addition made is purely on adhoc basis.

3. That having regard to the facts and circumstances of the case, Hon'ble CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making addition of Rs. 2,86,250/- u/s 69 of the Act on account of alleged unexplained investment in properties, without considering the fact that investment in properties was made out of funds available with the mother of the assessee.

4. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”

4. Tersely, we advert fact of the case is that the assessee is in individual, and a search was initiated u/s 132 of the Act and was carried upon at the business and residential premises of the assessee and its group of companies on 05.12.2013. The assessee filed the Income Tax Return against the notice u/s 153A with a total income amount of Rs. 1,68,240/- return filed on 31.03.2015. The assessment was completed u/s 144 r.w.s. 143(3)/153A of the Act. The total addition was made at an income amount of Rs.8,63,990/- against the return income of Rs.1,68,240/- during the assessment proceeding. The addition was made in two heads; i) cash

deposit in bank amount of Rs.4,09,500/-. ii) amount of Rs.2,86,250/- on account of investment in the property & the same as unexplained investment. The assessee in appeal proceeding and also before the ITAT also challenged the jurisdiction for validity of the addition u/s 153A of the Act. Aggrieved assessee filed an appeal before the Id. CIT(A) by challenging both the factual and the legal ground. The Id. CIT(A) upheld the order of the Id. AO.

5. Being aggrieved the assessee filed an appeal before us.

6. During the hearing, none was present on behalf of the assessee. The matter was taken up with the consent of Id. CIT. DR.

7. We heard the submission of the Id. CIT DR and considered the order of both the revenue authorities. First, we are adjudicating the legal issue of the assessee. The addition was framed on basis of the section 153A. The addition u/s 153A should made on basis of the incriminating documents during the search. During the appeal, the assessee took the plea that both the additions are made not by the incriminating documents. The Id. CIT(A) had completed the hearing after the remand report by considering the additional evidence under Rule 46A of the Income Tax Rule, 1962 (in brevity the Rule). The relevant paragraph of the order of Id. CIT(A) appeared from para 3 is inserted as below:

“3. During the course of appellate proceedings, the AR of the appellant submitted his arguments as under:

“Sub:- WRITTEN SUBMISSION IN THE CASE OF SH. GAURAV NARULA, 49, PRAKUTI BUNGLOW, BHOPAL, TAL DASKROI, AHMEDABAD, for the ASSTT. YEAR 2014-15

In addition to statement of facts and grounds of appeals it is submitted that this is the case of assessee, individual, assessee filed return of income declaring net income amounting to Rs. 2,50,000/- on 31.03.2014. A search & seizure operation u/s 132 of the Act was carried at the residence premises of the assessee on 05.12.2013. Notice u/s 153A of the Act was issued, in response to which assessee filed return of income as declared in original return. The Ld. Assessing Officer framed assessment u/s 144 of the Act at an income of Rs. 19,60,200/- against the return income of Rs. 2,50,000/-, thus made an addition of Rs. 17,10,200/- i.e Rs. 3,77,500/- on account of cash deposited in bank account on different dates and Rs. 13,32,700/- on account of investment in properties u/s 69 of the Act, ignoring the fact that investment was made by the mother of assessee from her own funds and the same has been disclosed in her return of income. Aggrieved by the order assessee company preferred appeal before your honour.”

7.1 The assessee also respectfully relied on the judgment of different Hon'ble High Courts and Tribunals during appeal proceedings which are depicted in the order of Id. CIT(A). Here we are also considering the recent judgment of the Coordinate Bench of the ITAT, Amritsar in the case of:-

i). **Pinku Batra and Others vs. DCIT, ITA No.320 to 326/Asr/2017 order dated 11.08.2022.**

Respectfully reliance was placed also in the order of:-

ii). **Pr.CIT & Others vs. MeetaGutgutia Prop,Prop. Ferns 'N' Patels &Ors (2017) 152 DTR 153 (Del).**

iii). **CIT vs. Kabul Chawla, (2016) 380 ITR 0573 (Del).**

iv). **CIT-II, Thane vs. Continental Warehousing Corporation (Nhava Sheva) Ltd. (2015) 58 taxmann.com 78 (Bom. HC).**

7.2 Both the factual additions related to deposit of cash in bank and the investment in the property and not the incriminating material of the assessee. Considering the factual aspects and the catena of judgments, in our opinion the addition u/s 153A is out of jurisdiction. The entire addition is liable to be quashed.

8. In relation to the factual aspect is only for the academic purpose. So, the issue is need not be adjudicated in this appeal. In the result, the appeal of the assessee bearing ITA No. 434/Asr/2018 is allowed.

9. The facts of the present case are, mutatis mutandis, exactly similar to those other cases. Therefore, two other appeals of the assessees are allowed.

10. In the result, all the three appeals of the assessees are allowed.

Order pronounced in the open court on 20.10.2022

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