

**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. 127/Asr/2018
Assessment Year: 2010-11

Sh. Dharminder Singh
H. No. 21, Vill. Tarfan VPO
Chowgwan Sadpur near
Bus Stand, Khajala Mehta
Amritsar Road, Amritsar
[PAN: ECCPS 4388P]
(Appellant)

Vs. Income Tax Officer
Ward-4(1), Amritsar

(Respondent)

Appellant by : None

Respondent by: Sh. Mohit Kumar Nigam, Sr. DR

Date of Hearing: 02.08.2023

Date of Pronouncement: 23.08.2023

ORDER

Per Dr. M. L. Meena, AM:

The captioned appeal has been filed by the by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-2, Amritsar dated 29.01.2018 in respect of Assessment Year: 2010-11.

2. The assessee has raised the following grounds of appeal:

- “1. *That the Learned CIT(A) has erred in law and on facts while confirming the order of the AO.*
2. *That the Learned Income Tax Officer has erred in law and on facts while initiating proceedings u/s 148 and likewise CIT(A) is not justified while confirming the same.*
3. *That initiation of proceedings by the AO are without application of mind & is based on borrowed information and as such proceedings initiated are illegal, invalid and void abinitio.*
4. *That no notice u/s 148 has been served upon the assessee.*
5. *That notice issued u/s 148 is without jurisdiction.*
6. *That the Ld. AO has not appreciated the explanation furnished in response to notice u/s 142(1) in a proper and judicial manner.*
7. *That the AO has erred in law and on facts while directing the service to be effected by affixture. In any case service by affixture is not in accordance with law and as such it is illegal.*
8. *That the Ld AO has not appreciated the fact that appellant is an agriculturist doing no business and the only source of his income is from agriculture land and the same is exempted u/s 2(1-A) Likewise the CIT(A) further erred in confirming the same.*
9. *That in view of the facts of the case, explanation offered, AO is not justified while making the addition and CIT(A) has also erred in law and on facts while confirming the same.*
10. *That no reasonable opportunity of being heard was granted to the appellant.*

Accordingly it is prayed that the order of the Ld. CIT(A) confirming the order of Rs. 10,25,000/- be quashed or such other relief as may be permissible be granted.”

3. None attended for the assessee nor has he filed any adjournment application for seeking adjournment. The present case was posted for hearing on 16.03.2020, 15.07.2021, 13.09.2021, 17.09.2021, 09.12.2021, 28.02.2022, 09.05.2022, 06.07.2022, 06.09.2022, 18.10.2022, 14.02.2023, 16.03.2023, 31.06.2023 and 02.08.2023 but neither the assessee nor any Authorized Representative on behalf of the assessee has appeared or filed any adjournment application on most of the dates of hearing which let the presumption that the appellant assessee is not interested in pursuing the appeal, however, it is decided to hear the Id. DR and adjudicate the appeal on merits of the case.

4. The assessee has challenged two issues in the ground of appeal pertaining primarily to validity of reopening of assessment and secondly the source of income is being explained from agricultural land as exempted.

5. The case of the appellant was selected for scrutiny based on AIR information that the assessee has made cash deposit of Rs.50 lacs on 29.05.2009 and 63 lacs on 30.05.2009 in his saving bank A/c in Oriental Bank of Commerce. Zira. The assessee claimed that the source of cash

deposit in his bank account was out of the sale proceeds of the agricultural land by the assessee himself and his family members where the share of the assessee's income from property was calculated by AO at Rs.14,78,438/-. The AO being not satisfied with the reply of the assessee that the sale proceedings of agricultural land by the family members of the assessee were not corroborated with documentary evidence and the assessee could not explain why his other family members will deposit the cash in his bank account. Therefore, the AO has restricted the source of cash deposit to the extent of Rs.14,78,438/- and treated the balance amount of cash deposit of Rs.35,21,562/- out of the 50 lacs cash deposit in his bank account as unexplained income of the assessee and added back to the returned income of the assessee u/s 69 of the Act.

6. The appellant-assessee has raised the legal issue for the first time at the appellate stage without support of documentary evidence to substantiate the facts regarding the issue of notice u/s 148 without jurisdiction, non-service of notice u/s 148, reasons based on borrowed information and that AO has initiated the proceedings without application of mind in absence of perusal of the assessment order and the appellate order. It is revealed that the appellant assessee has not raised any

objection to the reasons recorded by the AO, during assessment proceedings. Since, the assessee has not filed any corroborative evidences to substantiate its legal issue in challenging the validity of the reassessment proceedings per se it cannot be held illegal. Once, the assessee participated in the reassessment proceedings without raising any objection to the said proceedings before the AO, it is presumed that he has no grievance against the validity of the reassessment proceedings and the jurisdiction of the Assessing Officer is held to be valid thereof. Accordingly, the legal issues raised in ground nos. 1 to 7 are rejected.

7. Next issue pertains to the source of disputed unexplained cash deposit income in the assessee's bank account being claimed as exempted agricultural income which has been confirmed by the Id. CIT(A) by observing as under:

Decision- In this case AO had AIR information that assessee made cash deposits of Rs 113,00,000/- in the account no. 06552151009356 in oriental bank of commerce during the FY 2009-10. The assessee had been able to explain the source of only Rs 14,78,438/- out of these deposits before the I&CI Wing of the department. The assessee was asked to explain the source of the balance cash deposits of Rs 98,21,562/-. In response the assessee stated that the agriculture land belonging to the assessee, Jasbir Kaur (wife), HARjit singh (son), Ranjit Singh (son), Jaagir Kaur (mother), Balvinder Kaur (Daughter) and Gurpreet singh (nephew) was sold on 29.5.2009 as per details already on record.

The assessee stated that the source of cash deposits in the bank are on account of sale proceeds of agriculture land belonging to him and his family members.

As per AIR information, assessee had made cash deposits of Rs 50,00,000/- on 29.5.2009 and Rs 63,00,000/- on 30.5.2009 in his saving bank account in oriental bank of commerce, Zira. As regards the source of cash deposits of Rs 50,00,000/- the assessee had submitted before the ITO I&CI wing Amritsar that the source of cash deposits is out of sale proceeds of agriculture land by the assessee himself and his family members Jasbir Kaur (wife), Harjit Singh (son), Ranjit Singh (son), Jaagir Kaur (mother), Balvinder Kaur (Daughter) and Gurpreet Singh (nephew). The share of the assessee in the sale of property was calculated by the AO at Rs 14,78,438/-. Therefore the AO was justified in accepting the source of cash deposit of Rs 14,78,438/- in the bank account of the appellant which was out of his shares of sale proceeds of the agriculture land of the family sold on 29.5.2009.

However, in absence of any documentary evidence that the other family members of the appellant had deposited their share of sale proceeds of the said agriculture land of the family of the appellant sold on 29.5.2009 in the said bank account of the appellant and because, assessee could not explain satisfactorily why his other family members will deposit cash in the bank account of the appellant, therefore the AO was justified in treating the balance cash deposit of Rs (50,00,000 - 14,78,438) = Rs 35,21,562/- in the saving bank account of the appellant in oriental bank of commerce, Zira as unexplained and the addition of Rs 35,21,562/- u/s 69A of the act is confirmed.

(b) As regards the cash deposit of Rs 63,00,000/- the assessee submitted before the AO that the same is from agriculture produce over the years 2003 to 2010. The assessee submitted a chart in annexure B to the AO which reveals that assessee has depicted production of crops on higher side and lowered the value of seeds, labour and diesel. The assessee tried to explain the source of Rs. 63,00,000/- through receipts from sale of crops. The AO did not accept the submission of the appellant that he kept so much cash at his residence when he was maintaining bank account since 2003. The purpose of keeping huge cash at home could not be explained by the assessee because by keeping huge money in banks he could have earned interest. Therefore, the AO treated the cash amounting to Rs 63,00,000/- as from undisclosed sources and added back to the total income u/s 69A of the act. The assessee had made cash deposit of Rs 10,00,000/- on 16.4.2009 in his bank account no. 12378 in Canara Bank,

Talwandi, Bahi whose source the assessee could not explain and therefore the AO added back Rs 10,00,000/- to the total income u/s 69A of the Act.

In the written submission filed by the appellant in the appeal proceedings it was stated that the assessee received on money which is called "Biana" for the said transaction of sale of agriculture land on 29.5.2009 and the same was at once deposited keeping in view the risk factor in the oriental bank of commerce, Zira and the registration was got done on the next date when the balance amount of Rs 63,00,000/- was deposited at the time of registration. It is a case of saving the registration fee by the purchaser as the land was got registered according to circle rate for which being an illiterate the assessee has no knowledge nor he was having any knowledge that the agreement deed was destroyed afterwards by the purchaser when the entire family members signed the registration deed. The appellant contended that the on money is received in sale and purchase of agriculture land and being a illiterate person the entire amount was deposited by the appellant.

Decision- As regards the cash deposit of Rs 63,00,000/- on 30.5.2009 in the saving bank account of the appellant maintained in oriental bank of commerce, Zira, the assessee submitted before the AO that the same is from agriculture prbduce over the years 2003 to 2010. The assessee submitted a chart in annexure B to the AO which reveals that assessee has depicted production of crops on higher side and lowered the value of seeds, labour and diesel. The assessee tried to explain the lsource of Rs. 63,00,000/- through receipts from sale of crops.

The AO rightly did not accept the submission of the appellant that he kept so much cash at his residence when he was maintaining bank account since 2003. The purpose of keeping use cash at home could not be explained by the assessee because by keeping huge money in banks he could have earned interest. Therefore, on this explanation of the appellant, the AO was justified in treating the cash deposit of amount of Rs 63,00,000/- as from undisclosed sources and making the addition u/s 69A of the act. Moreover, the appellant had failed to furnish evidence of receipt of sale of agriculture produce and agriculture expenses incurred every year from 2003 to 2010, and of his yearly expenses, and the therefore failed to justify generation of aggregate agriculture saving of Rs. 63,00,000/- upto 30.05.2009.

Moreover, In the written submissions filed by the appellant in the appeal proceedings the appellant had changed his stand and stated that the source of cash deposit of Rs 63,00,000/- was “on money “ or “Biana” received by the appellant for the said sale transaction on 29.5.2009. However, the appellant has no evidence in support of his claim that the source of Rs 63,00,000/- was the receipt of “on money” or “Biana” on the said sale transaction of agriculture land on 29.5.2009. The appellant has also admitted that he has no knowledge that the agreement deed was destroyed afterwards by the purchaser when the entire family members signed the registration deed.

Accordingly, the appellant having failed to furnish any documentary evidence of receipt of “on money” or “Biana” on the said sale transaction of agriculture land on 29.5.2009, therefore the source of cash deposit of Rs 63,00,000/- on 30.5.2009 in the saving bank account of the appellant maintained in oriental bank of commerce, Zira remained unexplained and the addition of Rs 63,00,000/- u/s 69A of the act is confirmed.

(C) The assessee had made cash deposit of Rs 10,00,000/- on 16.4.2009 in his bank account no. 12378 in Canara Bank, Talwandi, Bahi whose source the assessee could not explain and therefore the AO added back Rs 10,00,000/- to the total income u/s 69A of the act.

Decision- Even in the appeal proceedings the appellant had not furnished any explanation about the source of cash deposit of Rs 10,00,000/- on 16.4.2009 in his bank account no. 12378 in Canara Bank, Talwandi, Bahi therefore the addition of Rs 10,00,000/- u/s 69A of the act is confirmed. (D) The AO noticed that there are credit entries of interest of Rs 31,956/- in his saving bank account no. 9356 maintained in oriental bank of commerce, Zira and of Rs 12,330/f in saving bank account no. 7086 maintained in ‘OBC, Nawan pind and the assessee failed to disclose the same. Therefore the AO added back the aggregate interest income of Rs 44,296/- to the total income.

In the written submissions filed by the appellant in the appeal proceedings the appellant has not stated anything against the the said addition of interest income of Rs 44,296/-.

Decision- Since the appellant had failed to disclose the interest income of Rs 31,956/- in his saving bank account no. 9356 maintained in oriental bank of commerce, Zira and Rs 12,330/- in saving bank account no. 7086 maintained in

'OBC, Nawan pind, therefore the AO was justified in making the addition of Rs 44,296/- on account of undisclosed interest income, which addition is confirmed.

8. Having heard the learned DR, perusal of assessment record and the impugned order we find no merit and substance in the appeal of the assessee. Primarily, in absence of any documentary evidence that the other family members of the appellant had deposited their share of sale proceeds of the said agriculture land of the family of the appellant sold on 29.5.2009 in the said bank account of the appellant and secondly, since, the assessee could not explain satisfactorily either before the authorities below or before us that why his other family members will deposit disputed cash in the bank account of the appellant. Therefore, in our view, the AO was justified in treating the balance cash deposit of Rs (50,00,000 - 14,78,438) = Rs 35,21,552/- in the saving bank account of the appellant in oriental bank of commerce, Zira as unexplained and accordingly, the addition of Rs 35,21,562/- u/s 69A of the act is rightly confirmed by the Ld. CIT(A).

9. Again, as per the written submissions filed by the appellant in the appeal proceedings before the Ld. CIT(A), he had changed his stand by stating that the source of cash deposit of Rs 63,00,000/- was "on money "or

“Biana” received by the appellant for the said sale transaction on 29.5.2009. However, the appellant has no evidence in support of his claim that the source of Rs 63,00,000/- was the receipt of “on money” or “Biana” on the said sale transaction of agriculture land on 29.5.2009. The appellant has also admitted that he has no knowledge that the agreement deed was destroyed afterwards by the purchaser when the entire family members signed the registration deed. Since, the appellant has failed to furnish any documentary evidence of receipt of “on money” or “Biana” on the said sale transaction of agriculture land on 29.5.2009, and hence, the source of cash deposit of Rs 63,00,000/- on 30.5.2009 in the saving bank account of the appellant maintained in oriental bank of commerce, Zira remained unexplained and accordingly, the addition of Rs 63,00,000/- u/s 69A of the act is confirmed by Ld. CIT(A) is justified.

10. Further, in the appeal proceedings before the authorities below and before us, the appellant had not furnished any explanation about the source of cash deposit of Rs 10,00,000/- on 16.4.2009 in his bank account no. 12378 in Canara Bank, Talwandi, Bahi therefore the addition of Rs 10,00,000/- u/s 69A of the act is rightly confirmed by the CIT(A). Similarly, the appellant had failed to disclose the interest income of Rs 31,956/- in his

saving bank account no. 9356 maintained in oriental bank of commerce, Zira and Rs 12,330/- in saving bank account no. 7086 maintained in 'OBC, Nawan pind, therefore the AO was justified in making the addition of Rs 44,296/- on account of undisclosed interest income, and the said addition is confirmed accordingly.

11. In the above view, we find no infirmities or perversity in the order of the Ld. CIT appeal to the facts on record. Accordingly, the decision of CIT(A) is sustained.

12. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open court on 23.08.2023

Sd/-
(Anikesh Banerjee)
Judicial Member

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

GP/Sr.PS

Copy of the order forwarded to:

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

True Copy
By Order