

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री विक्रम सिंह यादव, लेखा सदस्य एवं श्री परेश म. जोशी, न्यायिक सदस्य  
BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JM

आयकर अपील सं. / ITA Nos. 669 & 670/Chd/2023  
निर्धारण वर्ष / Assessment Year : 2011-12 & 2012-13

Harish Sharma, Proprietor M/s Shekhar Textile Industries B-XXX-2759, Arya colony, Moti Nagar, Ludhiana	बनाम	The ITO Ward1(5) Ludhiana
स्थायी लेखा सं. / PAN NO: AFWPK4824R		
अपीलार्थी/ Appellant		प्रत्यर्थी/ Respondent

निर्धारित की ओर से/ Assessee by : Shri Sudhir Sehgal, Advocate  
राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr. DR  
सुनवाई की तारीख/ Date of Hearing : 12/06/2024  
उद्घोषणा की तारीख/ Date of Pronouncement : 09/09/2024

### आदेश/Order

**PER VIKRAM SINGH YADAV, A.M. :**

These are two appeals filed by the Assessee against the respective orders of the Ld. CIT(A)/NFAC, Delhi each dt. 12/10/2023 pertaining the Assessment Years 2011-12 and 2012-13 respectively.

2. Both these cases were heard together and are being disposed off by this consolidated order. With the consent of both the parties, the case of the Assessee in ITA No. 669/Chd/2023 was taken as a lead case wherein the assessee has raised the following grounds of appeal:

"1. That the Ld. CIT(A), NFAC, Delhi has erred in confirming the action of the Assessing Officer in reopening of the case u/s 148 as there was no proper reason to believe that the income of the assessee had escaped assessment and further wrong reasons have been recorded for formation of belief and, thus, the reassessment proceedings are bad in law.

2. That the Ld. CIT(A) has failed to appreciate that though, there can be no reason to believe about the transfer of cash in the bank account of the assessee viz-a-viz the net income disclosed by the assessee as both of them have no link or connection since the deposit in the bank account by way of transfer, can be on account of many other reasons as held in the case of Sh.

*Amrik Singh, ITAT, Amritsar Tribunal and Bahadur Mai Shivaji Mai. Reported in 53 [taxmann.com](http://taxmann.com) (Del.Trib.) 66, in which, it has been held that the reason to believe cannot be held to be valid on account of deposit of cash in the bank account of the assessee, since the same can be on account of many reasons.*

3. *Notwithstanding the above said ground of appeal, the Ld. CIT(A) has erred in confirming the addition on merits to the tune of Rs. 28,31,000/- as unexplained money and not taking into consideration the facts that in the case of Sidhi Vinayak International, where the CIT(A) has deleted the addition as made by the Assessing Officer on similar issue and the department is not in appeal against that order of CIT(A) and, thus, the confirmation of addition as made by the CIT (A) deserves to be deleted.*

4. *That the Ld, Assessing Officer has erred in making the addition u/s 69 and charging to tax the income at maximum margin rate.*

5. *That the addition has been made against the facts and circumstances of the case.*

6. *That the appellant craves leave to add or amend the grounds of appeal before the appeal is finally heard or disposed off."*

3. Briefly the facts of the case are that the assessee filed his original return of income on 04/07/2011 declaring total income of Rs. 2,47,987/-. Subsequently, the case of the assessee was reopened by recording reasons under section 148 of the Act dt. 28/03/2018 wherein the AO stated that he had reasons to believe that transactions amounting to Rs. 64,00,000/- made by the assessee in his bank account has escaped assessment within the meaning of Section 147 of the Act. In response to notice under section 148, the assessee filed his return of income and requested for supply of copy of the reasons which were duly supplied to the assessee. However, there were no objections filed to the reasons so recorded during the course of assessment proceedings. Thereafter, notice under section 143(2) and 142(1) were issued calling for the necessary information and documentation from the assessee to explain the source of deposits in his bank account. Thereafter the AO referring to the bank statement of the assessee noted that the actual credits appearing in the bank account of the assessee are to the tune of Rs. 28,31,000/- instead of Rs. 64,00,000/- as initially mentioned in the reasons so recorded and thereafter, in absence of any explanation furnished by the

assessee, brought the same to tax under section 69A of the Act which on appeal has been confirmed by the Ld. CIT(A) and against the said findings, the assessee is in appeal before us.

4. In Ground No. 1 and 2, the assessee has challenged the assumption of jurisdiction by the AO under section 147 of the Act. In this regard, it was submitted that the reasons for reopening the case were incorrect as the assessee had received bank credit of Rs. 28,31,000/- only from M/s Sidhi Vinayak International as against the bank credit of Rs. 64,00,000/- mentioned in the reasons for reopening of the case under section 148 of the Act which itself vitiate the whole of the reassessment proceedings and liable to be set-aside. It was further submitted that the AO was not even having a copy of the bank statement of the assessee and it is clear that only on the basis of the AIR information in his possession, he has reopened the case of the assessee and has recorded the reasons that income has escaped assessment. It was accordingly submitted that the AO was not having any cogent material to form reasons to belief that the bank deposits represents the income of the assessee.

5. In respect of Ground no. 3 wherein the assessee has challenged the additions so sustained by the Id CIT(A), it was submitted that the assessee has sold cloths to M/s Sidhi Vinayak International for which the consideration has been received through banking channels and on the other hand, it has purchased cloths from M/s Balaji International and the payments have been made again through banking channels. It was submitted that the same is evident from the copy of the bank statement as well as copy of the ledger account of M/s Balaji International and M/s Sidhi Vinayak International which has been duly submitted during the course of assessment proceedings. It was submitted that in the case of M/s Sidhi Vinayak International, similar reasons were recorded and additions were made in its hands which are on appeal has been deleted by the Ld. CIT(A) by his order dt. 31/07/2019. It was

submitted that the payments made by M/s Sidhi Vinayak International to various concerns including the assessee has been accepted in the appellate proceedings therefore, very basis of addition in the hands of the assessee i.e; payment received from M/s Sidhi Vinayak International amounting to Rs. 28,31,000/- has already been accepted by the Ld. CIT(A) in case of M/s Sidhi Vinayak International, the addition made in the hands of the assessee deserves to be deleted. It was submitted that the Revenue has not filed any appeal against the order passed in the case of M/s Sidhivinayak International which means that the order has attained finality and accordingly the addition made in the hands of the assessee deserves to be deleted. It was further submitted that no specific defect has been pointed out in the books of accounts of the assessee and the books of accounts have not been rejected rather the trading results have been accepted by the AO and where the purchases and sales are recorded in the books of account and related profits on these transactions has already been offered to tax, then making addition under section 69A of the Act would amount to double addition and same cannot be sustained in the eyes of law. It was further submitted that where the transactions are duly recorded in the books of account and offered to tax, the same cannot be treated as unexplained and brought to tax under section 69A of the Act. It was accordingly submitted that the addition so made by the AO and sustained by the Ld. CIT(A) be directed to be deleted.

6. The Id DR is heard who has submitted that the case of the assessee was reopened basis information in possession of the AO that there are rotation of funds among three different bank accounts and one of the account belong to the assessee wherein funds to the tune of Rs 64 lacs have been credited and thereafter, transferred to Balaji International and that the genuineness of the transactions during the course of enquiry by the investigation wing are not proved. The AO in receipt of the said information referred to the return of income so filed by the assessee and recorded a finding that the funds to the

tune of Rs 64 lacs are not commensurate with the income shown in the return of income so filed by the assessee. Further, to verify the financial transaction, a letter was issued and served on the assessee but there was no response from the assessee and basis the same, the AO went ahead and recorded the reasons that the assessee has no explanation to offer regarding the source of cash deposits in the bank account and hence, the aforesaid transactions to the tune of Rs 64 lacs has escaped assessment within the meaning of Section 147 of the Act. It was accordingly submitted that the AO had tangible piece of information in his possession for recording the reasons of escapement of income. It was further submitted that it is not a case that the AO has simply relied on the information from the ADIT(Investigation), rather, the AO has written to the assessee to verify the said information but there was no response from the assessee, thereafter, basis information in his possession including examining the return of income and after due application of mind, the AO has recorded the reasons and the case of the assessee was reopened. It was accordingly submitted that there is no infirmity in the assumption of jurisdiction by the AO u/s 147 of the Act.

7. On merits of the additions, it was submitted that the assessee has failed to explain the source of such bank deposits and therefore, the AO after examining the bank statement, has brought to tax an amount of Rs 28.31 lacs to tax invoking provisions of section 69A of the Act as unexplained deposits. Further, reliance was placed on the order of the lower authorities.

8. We have heard the rival contentions and perused the material available on record. The limited dispute relates to nature and source of bank deposits to the tune of Rs 28.31 lacs in the bank account maintained by the assessee with the ICICI Bank. Admittedly, the said credit/deposits relates to amount received by the assessee from M/s Sidhivinayak International. The assessee has explained that the said amount has been received on account of sales made to M/s Sidhivinayak International which has been duly

recorded in books of accounts. In this regard, our reference was drawn to the financial statements for the financial year 2010-11 relevant to impugned assessment year wherein the sales to the tune of Rs 1,07,58,781/- has been disclosed. Further, our reference was drawn to the account of M/s Sidhivinayak International wherein the assessee has shown sales to the tune of Rs 28,31,921/-. It was submitted that the sales to M/s Sidhivinayak International is part of overall sales reported by the assessee and which has been duly recorded in the books of accounts of the assessee and which has been offered to tax as part of the return of income and which has been accepted by the AO and no adverse finding has been recorded by either of the authorities. It has been further submitted that sales so made by the assessee has been accepted in the appellate proceedings by way of purchases in the hands of M/s Sidhivinayak International for the same assessment year and the said proceedings have attained finality in absence of any further appeal and thus accepted by the Revenue.

9. We find force in the contentions so advanced by the Id AR and are of the opinion that the nature and source of deposits has been duly explained by the assessee and the reasoning for arriving at the said findings are as follows. The amount has been received from sales made by the assessee to M/s Sidhivinayak International the sale so made have been duly recorded in the books of accounts and disclosed in the return of income. Where the results so declared in the books of accounts as so disclosed in the return of income has been accepted by the Revenue and no adverse finding has been recorded, there is no basis to hold that the credits in the bank account which in effect reflect the sale proceeds are unexplained. In the result, we find that there is no justifiable basis to invoke the deeming fiction to hold the bank deposits as unexplained. We accordingly direct to delete the addition so made by the AO and sustained by the Id CIT(A) and ground no. 3 of the assessee's appeal is allowed.

10. The ground no. 1 & 2 have thus become academic in nature and we don't deem it necessary to adjudicate the same and the same are thus dismissed as infructuous.

11. In the result, the appeal of the assessee is partly allowed.

12. Both parties fairly submitted that the facts and circumstances of the case in ITA no. 670/ITA/2023 are identical and therefore, our findings and direction in ITA NO. 669/ITA/2023 shall apply *mutatis mutandis* to this appeal and the appeal of the assessee is partly allowed.

13. In the result, both the appeals are partly allowed.

Order pronounced in the open Court on 09/09/2024.

**Sd/-**

परेश म. जोशी  
(PARESH M. JOSHI)  
न्यायिक सदस्य / JUDICIAL MEMBER

**Sd/-**

विक्रम सिंह यादव  
(VIKRAM SINGH YADAV)  
लेखा सदस्य/ ACCOUNTANT MEMBER

**AG**

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

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

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar