

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 NO. 792/Chd/2024

निर्धारण वर्ष / Assessment Year : 2011-12

Amrik Singh S/o Ujjagar Singh Vill: Koolhi Khura, PO: Lehal NR Punjab Mata Ngar Ludhiana, Punjab-1411107	बनाम	The ITO Ward-1 (2), Ludhiana Jurisdiction Officer Ward 3(1), Ludhiana, Punjab
स्थायी लेखा सं./PAN NO: DDEPS3301E		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

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

राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, JCIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 09/12/2024

उद्घोषणा की तारीख/Date of Pronouncement : 23.12.2024

**आदेश/Order**

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

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC, Delhi dt. 24/06/2024 pertaining to Assessment Year 2011-12.

2. In the present appeal, Assessee has raised the following grounds of appeal:

"1. That the Ld. CIT(A) has erred in confirming the action of the Assessing Officer in reopening of the case u/s 148 and confirming the order of Assessing Officer in making the assessment at an income of Rs. 11,00,500/-.

2. That the Ld. CIT (A) has failed to appreciate that there was wrong reason to believe, which was formed by the Assessing Officer in, as much as, in the reasons so recorded, it has been mentioned that the escapement of income is on account of deposit in the bank account to the tune of Rs. 22,00,500/-, instead of correct amount of Rs. 11,00,500/- and, thus, the assessment on this account deserves to be quashed as per the judgment of Chandigarh Bench of the ITAT in the case of Smt. Monika Rani vs ITO, ITA No.582/Chd/2019 dated 28.02.2020, Fortune Metaliks Limited vs DCIT, ITA No.1090/CHD/2019 dated 12.01.2021 and other judgments of Hon'ble Gujarat High Court and Other Co-ordinate Benches of the ITAT.

3. That the Ld. CIT(A) has failed to appreciate that even the PCIT has accorded wrong sanction with regard to approval for issuance of notice u/s 148 on the escapement of income at Rs. 22,00,500/-, without any application of mind.

4. That the approval as given by the Ld. PCIT for giving sanction to notice u/s 148 is in mechanical manner, without any application of mind and, thus, it deserves to be quashed.

5. Notwithstanding the above said ground of appeal, the Ld. CIT(A) has erred in confirming the action of the Assessing Officer in confirming the addition of Rs. 11,00,500/- without properly considering the submissions of the assessee.

6. That the Ld.CIT(A) has failed to appreciate that there was withdrawal from the bank account, two days before the deposit of Rs. 11,00,500/- and, as such, the confirmation to the tune of Rs. 13,00,000/- of addition is against the facts and circumstances of the case.

7. That the Ld. CIT(A) has failed to appreciate that the amount so withdrawn just two days (being Saturday & Sunday) before the deposit in the bank accounts, it was not used anywhere and without establishing that the said sum have been used somewhere else and not giving of benefit of withdrawal of Rs. 13,00,000/- based on the detailed submissions of the assessee and ignoring the binding judgment of Jurisdictional P&H High Court in the case of Sh. Shiv Charan Dass, reported in 126 ITR 263 and followed by the jurisdictional Chandigarh Bench of the ITAT, was not proper, wherein, it has been held that the amount having not been utilized anywhere, the addition is not justified.

8. That the appellant craves lead 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 assessment in this case was completed under section 144 r.w.s 147 vide order dt. 23/12/2018 wherein a sum of Rs. 11,00,500/- was brought to tax as unexplained money invoking provisions of Section 69A of the Act in absence of necessary explanation submitted by the assessee explaining the source of the cash deposit in his bank account maintained with SBI.

4. Being aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A) and after considering the submission of the assessee as well as calling for

the Remand Report, the addition so made by the AO was confirmed and against the said findings, the assessee is in appeal before us.

5. During the course of hearing, the Ld. AR submitted that during the year under consideration, the assessee has sold his agricultural land located in Village Majari for a total consideration of Rs. 86,30,074/- and out of the said amount, the assessee received a sum of Rs. 72,04,568/- in his bank account i.e. the assessee received cheques of Rs. 50,00,000/- and 22,04,568/- dated 25.09.2010. The said amount was received by the assessee in his bank account maintained with Axis Bank and cheques were cleared on 04.10.2010. Copy of the bank account statement is placed at page no. 5 of the paper book. It was submitted that as the said land was agriculture land, hence, there was no capital gain arising out of said transaction.

6. It was submitted that out of Rs. 72,04,568/-, Rs. 71,20,568/- was transferred by the assessee in his another bank account maintained with Axis Bank and copy of the same is placed at page no. 6 of the paper book and thereafter, on 24.12.2010, the assessee withdrew cash for an amount of Rs. 13,00,000/- from the said bank account and then on 27.12.2010, out of the said withdrawn cash, Rs 11,00,500/- was deposited in the bank account of the assessee maintained with State Bank of India for making a fixed deposit and the copy of the bank account statement is placed at page no. 7 of the paper book.

7. It was accordingly submitted that the source of cash deposit is only the earlier cash withdrawals made by the assessee during the year under consideration. It was submitted that the assessee has made cash deposits of Rs. 13,00,000/- on 24.12.2010 i.e. on Friday and then on immediate Monday, the assessee re-deposited Rs. 11,00,500/- as on Saturday i.e. on 25.12.2010 (Christmas) and on Sunday i.e. on 26.12.2010 (Public Holiday), the banks were closed. It was submitted that the department has not passed any adverse opinion with regard to the utilization of cash withdrawn by the assessee on 24.12.2010 other than redeposit of the same in his own bank account. In this

regard, it was submitted that wherein, the department has not found any utilization of the cash earlier withdrawn by the assessee, then the said cash deserves to be accepted as source of cash deposit in the bank account of the assessee.

8. It was submitted that the AO as well as the Id CIT(A) has grossly failed to appreciate the fact that there is merely a gap of only 2 days in the date of cash withdrawals and cash deposit made by the assessee and further, with regard to the difference in amount of cash deposit and cash withdrawal, it was submitted that although there is a difference in the amount of cash deposits and cash withdrawals, but the amount of cash withdrawals is on higher side i.e. out of the amount of Rs. 13,00,000/- withdrawn by the assessee, Rs. 11,00,500/- was re-deposited within two days and that too only on account that the two days were public holidays and the banks were closed. Hence, the cash deposit is only on account of the cash withdrawals made by the assessee.

9. In light of aforesaid submissions, it was submitted that the source of cash deposit made by the assessee is only on account of cash earlier withdrawn by the assessee from his own bank account and therefore, the cash deposit made by the assessee in his own bank account stands explained and thereby, the assessment order passed by the AO alleging that the cash deposits in the bank account of the assessee is unexplained deserves to be quashed and the additions made by the AO deserves to be deleted.

10. Per contra, the Ld. DR has relied on the orders of the lower authorities.

11. We have heard the rival contentions and perused the material available on record. During the year under consideration, the assessee has sold his agricultural land located in Village Majari for a total consideration of Rs. 86,30,074/- and out of the said amount, the assessee received a sum of Rs. 72,04,568/- on 04/10/2010 in his bank account maintained with Axis Bank. The said amount was transferred to another account maintained with Axis Bank on

20/10/2010 and there were cash withdrawals from the second Axis Bank to the tune of Rs 13,00,000/- on 24/12/2010 besides other withdrawals and thereafter, there were cash deposits of Rs 11,00,500/- with SBI on 27/12/2010 and out of which, Rs 11,00,000/- has been transferred towards opening of a fixed deposit account. The assessee has explained that source of cash deposit of Rs 11,00,500/- as out of earlier withdrawals made of Rs 13,00,000/- within few days and even the transfer of funds in SBI has been explained for the purposes of opening a FDR account. We also find that sale of agriculture land for Rs 86,30,074/- has not been disputed by the Revenue, therefore, even the ultimate source of such cash deposit has been explained by the assessee by way of proceeds from sale of agriculture land. In light of the same, we find that the assessee has sufficiently explained the source of cash deposit and the deposit so made cannot be held as unexplained and the addition so made invoking provisions of section 69A is hereby directed to be deleted.

12. In light of the same, rest all grounds of appeal have become academic and the same are dismissed as infructious.

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

Order pronounced in the open Court on 23.12.2024.

Sd/-

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

Sd/-

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

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