

**IN THE INCOME TAX APPELLATE TRIBUNAL
(CHANDIGARH BENCH: 'B': CHANDIGARH)**

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT
AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

**ITA No:- 693/CHD/2018
(Assessment Year- 2010-11)**

Om Parkash, S/O Shri Ujagar Singh, VPO Salaudi, Tehsil Samrala, District Ludhiana.	Vs.	The Income Tax Officer, Ward-3, Khanna.
PAN No: BBZPP9706R		
APPELLANT		RESPONDENT

Assessee by : Shri Sudhir Sehgal, Adv.
Revenue by : Smt. Kusum Bansal, CIT(DR)

Date of Hearing : 02.01.2025
Date of Pronouncement : 02.01.2025

ORDER

PER MAHAVIR SINGH, VP:

This appeal by the Assessee is arising out of the order of Commissioner of Income Tax (Appeals)-2, Ludhiana, in appeal no. 24/IT/CIT(A)-2/Ldh/2016-17 vide order dated 15.03.2018. Assessment was framed by Income Tax Officer, Ward-3, Improvement Trust Building, G.T, Road, Khanna, for the

Assessment Year 2010-11 under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') vide his order dated 28.03.2016.

2. The first issue in this appeal of assessee is as regards to the order of CIT(A) restricting the addition at Rs. 3,51,19,200/- made by the AO at Rs. 4,44,69,200/- being unexplained cash deposit in Saving Bank Account No.- 0181-E05719-001 maintained with Indusind Bank, Khanna. For this issue, the assessee has raised the following grounds nos. 1 and 2, which reads as under:

"1. That the Ld. CIT(A) has erred in confirming the action of the Assessing Officer that in the facts and circumstances of the case, the Assessee and not Jaspreet Singh is the real owner of the saving bank A/c No.0181- E05719-001 with Industrial Bank, Khanna as per Para 5.7 of his order.

2. The Ld. CIT(A) has further erred in confirming the action of the Assessing Officer in making addition of Rs.3,51,19,200/- out of addition of Rs.4,44,69,200/- made by the Assessing Officer on account of un- explained cash deposits in Saving Bank A/c No. 0181-E05719-001 with Industrial Bank, Khanna as Para 5.7 of his order."

3. Brief facts are that the assessee filed his original return of income for the relevant Assessment Year 2010-11 on 27.03.2011. Subsequently, the AO issued a notice U/s 148 of the Act dated 27.03.2015, and in response to this notice, the assessee filed return

of income declaring an income of Rs. 1,12,500/- on 20.04.2015. The AO noticed that the assessee made huge cash deposits in his Saving Bank Account maintained with Indusind Bank, Khanna, during the Financial Year 2009-10 relevant to Assessment Year 2010-11 amounting to Rs. 4,44,69,200/-. Hence, the AO reopened the assessment by invoking the provision of Section 147 of the Act, and accordingly the reasons were recorded before issuance of the notice U/s 148 of the Act. The assessee was asked to explain the source of cash deposits of Rs. 4,44,69,200/- in his bank account S.B. Account No.- 0181-E05719-001 maintained with Indusind Bank, Khanna. The assessee filed an explanation for the cash deposits and, particularly, he filed certificate issued by Indusind Bank, Khanna, which reads as under:

“It is to certify that Mr. Om Parkash R/o Village Salaudi Tehsil Samrala, Distt. Ludhiana is having a Saving A.c No. 0181-E05719-001 with our Indusind Bank, Surya Tower, GT Road, Khanna Branch. It is to certify that an entry dated 10 Feb 2009 of amount Rs. 1,62,14,200 (One Crore sixty two lacs fourteen thousand and two hundred only) was wrongly credited in this account as this amount not pertain to Mr. Om Parkash as the same was reversed on next day 11 Feb 2009.”

The AO has not accepted the certificate issued by the Bank, and in response to the above certificate, the AO wrote letter no. 674 dated

07.10.2015, to the Branch Manager of IndusInd Bank, who while replied reference entry of Rs. 16,214,200 on 10.02.2015, categorically denied of such credit entries, as stated below:

“Please note that the entry of Rs. 16,214,200 on 10.02.2015 in the account of "E05719-001 is cash deposit and not transfer from any customer account, hence we will not be able to furnish statement of account as sought in your notice. As informed earlier the entry was reversed and credited with Rs. 8,107,100 each in 0181-E13396-001 CHARANJIT SINGH and 0181-E13397- 001 ARSHPREET KAUR on 11.02.2015.”

The AO, discussing the various aspects, finally noted that the assessee has not tried to bring actual facts for completion of assessment order, and willfully and intentionally failed by not submitting evidence as well as affidavit of undated certificate issued by Indusind Bank in the office of the AO. Hence, the AO made addition of cash deposits amounting to Rs. 4,44,69,200/- as unexplained cash deposits U/s 68 of the Act. Aggrieved, the assessee preferred an appeal before the CIT(A).

4. Before the CIT(A), the assessee filed certain details, and after considering the details, the CIT(A), restricted the addition to Rs. 3,51,19,200/- i.e. peak amount of cash deposits as against the

addition made by the AO at Rs. 4,44,69,200/-. The CIT(A) has adjudicated this issue vide para 5.7 of his order at page 28 and 29. Aggrieved, now the assessee is in appeal before the Tribunal.

5. We have heard the rival contentions and gone through the circumstances of the case. Before us, Ld. Counsel for the assessee stated that the alleged deposits in Saving Bank Account No. 0181-E05719-001, maintained with Indusind Bank, Khanna, was operated by him as name lender for one Sh. Jaspreet Singh and all the transactions in the said account pertained to Sh. Jaspreet Singh. He argued that the AO did not accept the assessee's contention and treated the amount of Rs. 4,44,69,200/- as unexplained cash credits. We noted that the assessee has obtained copies of deposit slips and deposit form and withdrawal transfer form and on a plain reading of these deposit forms, it can be seen that the signatures are completely different from the assessee, as mentioned on affidavit and other documents, i.e. order sheet entry of the Income Tax Department from deposits forms and other bank documents. As the assessee before us contended, that, on further enquiry and request made to the AO, the copies of the account

opening forms of the such one Charanjit Singh and other Arshpreet Kaur, were obtained and further enquiry were made and found as under:

“i. First it was observed that such accounts were opened on the very day i.e. on 11.02.2010 on which such amount was transferred from the alleged bank account of the assessee.

ii. Secondly, on enquiry by the AO based on the accounting opening forms of such bank accounts, it was found out:

a. That one bank representative who introduced such person in the bank Sh. Amrish, stated that his signatures had been forged on the account opening form (statement copy at Pages 80-83 of the Paperbook)

b. That the other bank representative, didn't appear before the AO and only a penalty was imposed for non-appearance.

iii. Thirdly, on further deliberation, the ID proofs of the one Charanjit Singh and other Arshpreet Kaur, attached in such bank accounts being their Driving Licences, were found to be not issued by the DTO, clearly showing them to be forged. The letter from DTO was submitted to the CIT(A) in the reply dated 25.09.2017 as placed at Page 128-133 of the PB, however the same was ignored while passing the order in case of the assessee.”

Hence, the Ld. Counsel for the assessee submitted that this bank account was opened with the insider's help and that the assessee was never the owner of these transactions, and even the signature did not match. He totally denied the transaction. When these facts were confronted to the Ld. Sr. DR, he only requested that the matter be remanded back to the AO and, AO can be directed to

conduct a proper enquiry as regards to the real owner of the above account. For this proposition, the Ld. Counsel of the assessee fairly agreed, and hence, the matter is being remanded back to the file of the AO.

6. After hearing both the sides and going through the circumstances & facts of the case, we are of the view that actually first it is to be ascertained, who is the actual owner of the alleged Bank Account No. 0181-E05719-001 maintained with Indusind Bank, where the cash deposits of Rs. 4,44,69,200/- were made. The AO will conduct an enquiry, and in case required, he will take help of Forensic expert as well and, accordingly, will proceed according to the law. Accordingly, this issue in the assessee's appeal is remanded back to the file of the AO.

7. As regards to the other issue, i.e. addition made by the AO of Rs. 3,60,000/- on account of unexplained expenditure incurred on the transfer of land to Sh. Jaspreet Singh, it is directly connected with the first issue. Hence, this issue exactly on the same reasoning remanded back to the file of the AO.

8. As regards to another issue of Rs. 1 lakhs, disallowance made by the AO in regard to deduction claimed U/s 80C of the Act and addition of Rs. 85,067/-, on account of interest credited in this very same credit account, we also remand these two issues back to the file of the AO for fresh adjudication.

7. In terms of the above matter, the file is restored file to the AO. The order of AO and that of the CIT(A) are set aside, and the matter is remanded back to the file of the AO denovo.

Order pronounced in the Open Court on 02.01.2025

Sd/-
(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Dated: 02.01.2025

Pooja/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI