

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

**BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT &
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA Nos. 1285/CHD/2019

निर्धारण वर्ष / Assessment Year : 2011-12

Anubhav Aggarwal, #526-B, Aggar Nagar, Ludhiana 141001	बनाम Vs.	The ACIT, Central Circle-1, Ludhiana
स्थायी लेखा सं./PAN NO: AAYPA9742K		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : None

राजस्व की ओर से/ Revenue by : Shri Rohit Sharma, CIT DR
(Virtual)

सुनवाई की तारीख/Date of Hearing : 06.02.2025

उद्घोषणा की तारीख/Date of Pronouncement : 25.02.2025

आदेश/Order

Per Krinwant Sahay, AM :

Appeal in this case has been filed by the assessee against the order dated 5.7.2019 passed by the ld. Commissioner of Income Tax (Appeals)-2, Jalandhar [hereinafter referred to as 'CIT(A)'].

2. The Assessee has raised following grounds of appeal:

1. That on the facts and in the circumstances of the case and in law, Ld. AO and Ld. CIT (Appeals) erred in making incorrect addition of Rs. 20,27,66,730/- being gifts received from Brother-in-Law residing out of India being received through proper banking channel.

2. Non-applicability of Section 68 of Income Tax Act, 1961 as assessee has provided Bank Statements and Foreign Inward Remittance Certificates for all the gifts received.

3. The contention of Ld. AO and Ld. CIT (Appeals) is wrong that the assessee has routed unaccounted funds generated by the flagship company M/s ARK Imports Private Limited and routed these funds from different bank accounts in the name of Anubhav Aggarwal and other group companies i.e. M/s Genex Polyfab Limited, M/s Genex Fincap Private Limited.

3. It emerges out from the record that ITA No. 1285/Chd/2017 and other cases of this group are on Board since 29th March 2017. From the Note Sheet entry, it is seen that Shri Tej Mohan Singh, Shri Jasleen Khera and others have appeared from time to time and thereafter all the Counsels have withdrawn their power of attorney and pleaded no instructions. On 26.9.2024, Shri Tej Mohan Singh, Advocate and Shri Sanjay Sood, CA also withdrew their power of attorney. It is pertinent to note that as and when a counsel withdrew his power of attorney, it is a duty cast upon him to

serve a notice through registered post upon the Assessee informing that he is withdrawing his power of attorney so that Assessee can make alternative arrangement thereafter. The Tribunal is not required to serve a fresh notice. But in the interest of justice and for abundant caution, Tribunal issued fresh notice for hearing to the Assessee for 20.11.2024. But none appeared on behalf of the Assessee. It is 50th occasion that this group has been listed for hearing. The notice was issued through the A.O. and the A.O. has informed that notice has been sent on the last e.mail available with the Department. It is further observed that DCIT, Central Circle, Ludhiana vide his letter dated 7.1.2025 informed the Tribunal that officials from the Range visited the premises of the Assessee which was found locked.

4. During proceedings before us, the ld. DR informed the Bench that he has been intimated by the Assessing Officer that the Assessee is absconding. We have been apprised that there are large number of cases pending against the head of the group with different investigating agencies. Looking to all these cumulative setting of circumstances would suggest that the Assessee is not very much interested in persecuting this appeal. Even otherwise, it is trite ('S. Velu Palandar Vs. DCIT',

83 ITR 686 (Mad.)] and incumbent on the authority to decide an appeal on merit in accordance with the principles of natural justice.

5. Now coming on merits of the case, the brief facts, as enumerated in the assessment order are as under:

1. The assessee belongs to Genex Group of cases, Ludhiana where a search and seizure operation u/s 132 of the Income Tax Act was conducted on 23.05.2013. During the search operation, various documents were found and seized from the various business and residential premises of the group. Accordingly, the case was centralized u/s 127 of Income Tax Act, 1961 vide order F.No.CIT-I/LDH/TECH/127/2013-14/606 dated 11.06.2013 and a notice u/s 153 A of the IT. Act requiring the assessee to file his return of income was issued on 24.03.2014.

- 1.2 In response! thereto, a return declaring income of Rs. 4,33,1152/- was filed by the assessee on 20.04.2015 as was originally filed u/s 139(1) on 14.09.2009. The case was taken up for scrutiny and statutory notices u/s 143(2) & 142(1) along with questionnaire was issued on 13.05.2015 and the same was duly served on the assessee. Subsequently, notices u/s 143(2) & 142(1) issued and complied with. In response to the notices, Sh.

Gaurav Gupta, C.A. and Sh. Gaurav Sharma, C.A., authorized representatives of the assessee attended the proceedings, with whom the case was also discussed.

2. The assessee is an individual and having income from salary being employed with M/s B.R. Spinners: (P) Ltd. beside this Long Term Capital Gain under the head income from Capital Gains and Interest income under head Income from other sources.

- 2.1 On examination of assessee's bank account no. 7589 with United Bank of India, Clock Tower, Ludhiana, Account No. 60041269875 with Bank of Maharashtra, Account no. 0-010721-164 with City Bank, Account no. 129-108361-006 with HSBC bank Ltd and account No. 0020N49778001 with Indusind Bank, it is noticed that these bank accounts are credited with an amount of Rs. 20,27,66,730/- on different dates as per the detail given.

Period	Particulars	Amount (In Rs.)
2007-08	Mr. Roman Umaraov	57,43,057/-
2008-09	Mr. Roman Umaraov	66,36,11,825/-
2009-10	Mr. Roman Umaraov	1,62,65,892/-
2010-11	Mr. Roman Umafaov	20,27,66,730/-
2011-12	Mr. Roman Umaraov	52,218/-
2012-13	Ms Swetlana Umaraov	15,17,00,000/-
2013-14	Ms Swetlana Umaraov	78,21,00,000/-
Total		1,22,22,39,722/-

- 2.2 In the course of assessment proceedings, the assessee was asked to explain the source of deposit

of Rs. 20,27,66,730/- on different dates throughout the year under consideration in the said bank account. The assessee as per his letter dated 07.03.2014 explained that these are gifts received during the year under consideration from his brother-in-law Mr. Raman Umarova and in support its contention enclosed the copies of the remittance advices.

2.3 Since the amount received as gifts during the different periods was substantial say more than 122 Crores and are being received continuously on different dates nearly throughout the year(s) and that to without any occasion, the genuineness of receipt of such gifts was required to be examined. Therefore, in order to verify the genuineness of the receipt of gifts as claimed, the assessee was asked to establish the identity, creditworthiness and genuineness of the transactions justifying the receipt of above amounts as gifts as claimed. He was also specifically asked to establish the relationship with the donee supported with documentary evidence. However, the assessee instead of establishing the genuineness of the receipt of above amounts as a gift and the relationship with the donee, filed his objections as per his letter dated 01.03.2016.

2.4 The explanation of the assessee has been considered and found no merit in it. It is a settled law that no

person can make a gift even to his near relative without any reason / occasion / consideration. It is a matter of record that the above gifts have been received not on a particular occasion but in a continuous process. Moreover, it is not evident as to whether the gifts as claimed was ever made and the doner had the resources to make such gifts of a substantial amount. Since the assessee has failed to establish the identity, creditworthiness and genuineness of the gifts claimed to have been received from his brother-in-law during the year under consideration and as such it is held that the amount of deposits introduced by the assessee in his bank account in the guise of receipt of gifts represents his undisclosed income earned from undisclosed sources which is liable for taxation. Therefore, the amount of Rs. 20,27,66,730/-/- received in the guise of gifts is held to be assessee's own income earned from undisclosed sources and is therefore added to the income returned. Accordingly, an addition of Rs. 20,27,,66,430/- is made to the income returned.

6. We have gone through the assessment order passed by the Assessing Officer and the appellate order passed by the Id. CIT(A). We find that the Assessing Officer has passed a speaking order based on various incriminating documents

found and seized from various business and residential premise of the group. Against the order of the Assessing Officer, the Assessee filed an appeal before the ld. CIT(A) on different grounds. The ld. CIT(A), in our view, has passed a speaking order on merit on each and every issue / ground raised by the Assessee in the appeal. The Assessee dissatisfied with the order of the ld. CIT(A) has filed this appeal before the Tribunal but despite giving fifty opportunities to the Assessee, the Assessee has not complied with and further that all the Counsels and C.A. who had filed their Power of Attorney have also withdrawn in the absence of any instruction from the Assessee.

7. The ld. DR relied on the order of the CIT(A) and prayed that the appeal of the Assessee deserves to be dismissed.

8. In our view, both the Assessing Officer and the ld. CIT(A) have passed the assessment order and the appellate order keeping in view the aspect of natural justice. They have considered all the necessary documents, statements and submissions filed by the Assessee. The relevant part of the finding of the ld. CIT(A) passed vide common order for AYs

2009-10 to 2011-12 & 2013-14 in the case of Assessee in question, is reproduced as under: -

4.11 Having considered the material available on record, I find that it is not disputed that funds in the form of gifts have been received by the appellant amounting in all to Rs. 1,22,22,39,722 in seven assessment years from A.Y 2008-09 to 2014-15. As regards, supporting evidence is concerned the appellant has submitted that these funds have been received from his wife Ms Svetlana Umarov and from brother in law Sh. Roman Umarov. As regards, sources of these funds is concerned it is stated by the appellant that these funds were received by Sh. Roman Umarov and his wife under the will of their father Sh. Alexander Umarov which is dated 06.01.2008.

4.12 The appellant has however failed to furnish the reasons for having received these gifts over a number of years and also could not furnish a copy of the bank account of Sh. Alexander Umarov whose estate is stated to have been distributed amongst his kin. The appellant also could not furnish a copy of the financial statements of the concern (belonging to Sh. Alexander Umarov) whose funds are being received by the appellant. The financial worth and financial capacity of the donor also could not be established with evidence in the form of financial statements, a copy of the ITRs, a copy of Bank statements etc. The appellant has also failed to state the reasons for having received these gifts and also the occasion on 'which these gifts were received.

4.13 I find that appellant has failed to furnish this evidence both at the stage of assessment as well as in the course of remand

proceedings. The onus clearly lies upon appellant under the provisions of section 68 of the IT Act to establish the sources of credits in the bank account. The appellant has clearly failed to furnish the same to the satisfaction of the AO. The judicial decisions cited by the appellant are found to be distinguishable on account of factual matrix of present case.

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4.18 Having perused the evidence available on record, I find that appellant has failed to establish the nature of relationship with the donor, the occasion on which gift was given and the details of sources of income of the donor. The appellant has also failed to file any evidence to establish the financial capacity and credit worthiness of the donor. The appellant has also not filed copies of income tax returns of the donor. Thus, all the requisite three ingredients as prescribed in the provisions of section 68 of Act, have not been established.

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4.19 Therefore, considering all these factors, I confirm the additions of Rs. 6,36,11,825 in A.Y 2009-10; of Rs. 1,62,65,892 in A.Y 2010-11; of Rs. 20,27,66,730 in A.Y 2011-12 & of Rs. 15,17,00,000 in A.Y 2013-14 made by the AO under this head.

5. In the result, all the four appeals are dismissed.”

9. Since the order passed by the ld. CIT(A) is a speaking order on each issue, therefore, in our considered opinion,

there is no need to interfere in the findings given by the ld. CIT(A). Thus, findings given by the ld. CIT(A) on different issues in his Appeal Order are hereby sustained. Accordingly, appeal filed by the Assessee on different grounds are hereby dismissed.

11.0 In the result, appeal of the assessee is dismissed.

Order pronounced on 25.02.2025.

Sd/-
(RAJPAL YADAV)
Vice President

Sd/-
(KRINWANT SAHAY)
Accountant Member

“आर.के.”

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