

**IN THE INCOME TAX APPELLATE TRIBUNAL,
CHANDIGARH BENCHES, "SMC" CHANDIGARH**

HEARING THROUGH: PHYSICAL MODE

BEFORE: SHRI. LALIET KUMAR, JUDICIAL MEMBER

आयकर अपील सं. / ITA No. 1137 /Chd/2024
निर्धारण वर्ष / Assessment Year : 2012-13

Manjit Singh Dhatt S/o Shri Dalip Singh H.No. 62, VPO Dhatt, Ludhiana	बनाम	The ITO Ward-3(1) Ludhiana
स्थायी लेखा सं./PAN NO: FHUPS6601D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Sudhir Sehgal, Advocate
राजस्व की ओर से/ Revenue by : Dr. Ranjit Kaur, Addl. CIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 07/05/2025
उदघोषणा की तारीख/Date of Pronouncement : 14/05/2025

आदेश/Order

PER LALIET KUMAR, J.M

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC, Delhi dt. 23/09/2024 pertaining to Assessment Year 2012-13.

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

1. That the Ld. CIT(A) has erred in dismissing the appeal of the assessee and confirming the order of the Ld. Assessing Officer in the proceeding u/s 148 and also confirming the addition of Rs. 27,94,060/ on account of cash deposit in the joint bank account in the name of self and his brother.

2. That the Ld. CIT(A) has erred in confirming the action of the Ld. Assessing Officer in reopening of the case u/s 148 as there was no reason to believe that the income of the assessee has escaped assessment and also that the wrong reasons have been recorded by the AO and, as such, on account of wrong reasons to believe, the reopening is bad in law and the assessment as framed by the Assessing Officer deserves to be quashed.

3. That the Ld. CIT(A) has failed to appreciate that the approval as granted by the Ld. PCIT u/s 151 is without any application of mind and, as such, the reopening of the case u/s 148 deserves to be quashed.

4. That the Ld. CIT(A) has failed to appreciate that no notice u/s 148 was received by the assessee, which is a mandatory requirement and non-service of the notice u/s 148 goes to root of assumption of jurisdiction by the Ld. Assessing Officer and thus, the assessment as framed by the Ld. Assessing officer deserves to be quashed.

5. Notwithstanding the above said ground of appeal, the Ld. CIT(A) has erred in confirming the addition of Rs. 27,89,250/ on account of cash deposited in the joint bank account of the appellant and his brother, and the submissions as filed before the Ld. AO have been is rejected summarily.

6. That the Ld. CIT(A) has failed to appreciate that the assessee has furnished all documentary evidences before the Ld. CIT(A) and which was forwarded to the AO and though as per the order of the Ld. CIT(A), the remand report was sent to the assessee but the same could not be accessed from the portal due to certain technical reasons and neither the assessee was aware from the same and therefore, the assessee was prevented by sufficient and reasonable cause in not replying to the remand report.

7. That the Ld. CIT(A) has only rejected the contention of the assessee regarding the deposit in the bank account ignoring the documentary evidences as furnished by the assessee and, as such, the additions as confirmed by the Ld. CIT(A) deserves to be set-aside.

8. Notwithstanding the above said ground of appeal, the addition of the total deposit in the joint bank account of the assessee is not called for, since the bank account was in the name of the assessee and his brother.

9. 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 Ld. AO noticed that cash deposits of Rs.27,94,060/- in the joint bank account of the assessee and his brother. Based on this information, proceedings under section 148 were initiated. The assessee submitted before the AO that the account was jointly held with his brother and provided explanations and certain documentary evidence in support of the sources of cash deposits. However, the AO was not satisfied with the explanation furnished and concluded that the assessee had failed to satisfactorily explain the nature and source of the cash deposits. Accordingly, the AO treated the amount of Rs.27,94,060/- as unexplained money under section 69A of the Act and made the addition in the assessment order.

4. Against the order of the Ld. AO the assessee preferred an appeal before the Ld. CIT(A). Before the Ld. CIT(A), the assessee challenged the reopening proceedings, contending that there was no valid reason to believe that income had escaped assessment and that the approval granted under section 151 was mechanical and without application of mind. The assessee also contended that no notice under section 148 was served upon him, thereby vitiating the assumption of jurisdiction. On merits, the assessee submitted that the cash deposits were partly explained and attributable to his brother and filed documentary evidence to support the claim. It was further argued that due to technical reasons, the assessee could not access the remand report on the income tax portal and was thus prevented from filing a reply. The Ld. CIT(A), after considering the material available on record and the remand report of the AO, upheld the validity of the reopening under section 148 and confirmed the addition, holding that the assessee had failed to satisfactorily explain the source of cash deposits.

5. Feeling aggrieved by the order passed by the Ld. CIT(A) the assessee is in appeal before us on the grounds mentioned therein.

6. Before us, the Ld. Counsel for the assessee reiterated the submissions made before the lower authorities. He argued that the reopening of the assessment was bad in law, as the reasons recorded were vague and without proper basis, and the approval under section 151 was granted mechanically. He further submitted that no valid service of notice under section 148 was effected, which goes to the root of the jurisdiction. On the merits, the Counsel for the Assessee contended that the bank account was jointly held with the assessee's brother and that the cash deposits were partly explained. He also submitted that the assessee was prevented by sufficient cause from responding to the remand report due to technical glitches on the portal and, therefore, an opportunity should be granted to rebut the findings recorded in the remand

report. Lastly, it was contended by the Ld. Counsel for the Assessee that the matter should be remanded back to the file of the AO with a direction to decide the issue afresh, as it was done in the case of the brother of the assessee by the Ld. CIT(A) vide order dt. 14-11-2024 vide DIN & Order no. ITBA/NFAC/S/250/2024-25/1070378769(1).

6.1 It was further submitted that the Revenue cannot make the entire addition in the hands of the assessee alone, particularly when the deposits were made in a jointly held bank account. The Ld. Counsel for the Assessee requested that the matter be remitted to the AO so that a consolidated order could be passed in the hands of both brothers after considering their respective explanations regarding the source of the deposits.

7. On the other hand, the Ld. DR relied upon the orders of the lower authorities. The Ld. DR, however, did not object if the matter was remanded back to the file of the AO so that the issue could be adjudicated after considering the contentions of both the assessee and his brother in a holistic manner.

8. I have heard the rival submissions and carefully perused the material available on the record. In the present case, the AO had recorded reasons based on tangible material, namely the cash deposits in the joint bank account, and had obtained the necessary approval under section 151 before issuing the notice under section 148. As noted by the Ld. CIT(A), the account was in the name of both the assessee and his brother, and the addition were made in the hands of the assessee and his brother even though deposits were reflected in the joint account. Admittedly, the deposits can either be added in the hands of the assessee, or brother, or in both hands, depending on the explanation offered by them. It was submitted by the Ld. Counsel for the Assessee that the CIT(A), in the brother's appeal, had already remanded the matter to the file of

the AO for fresh consideration vide order dt. 14-11-2024 vide Din and order no. ITBA/NFAC/S/250/2024-25/1070378769(1).

8.1 Considering this important fact, I deem it appropriate to remand the present appeal as well to the file of the AO, with a direction to decide the issue afresh after affording an opportunity of hearing to the assessee and after duly considering the submissions made in the case of the assessee's brother. Needless to say, this exercise shall be carried out by the AO in accordance with law and after affording a reasonable opportunity of hearing to the assessee and considering any reply or evidence filed by him.

9. In light of the above, the appeal of the assessee is allowed for statistical purposes. All other issues raised by the assessee before us are left open to be decided, if necessary, in the appropriate proceedings in accordance with law.

10. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 14/05/2025.

Sd/-

(LALIET KUMAR)
JUDICIAL MEMBER

AG

Date:

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

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

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar