

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**

**(HYBRID COURT)**

**BEFORE SH. MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER  
AND SH. UDAYAN DASGUPTA, JUDICIAL MEMBER**

**I.T.A. No. 655/Asr/2024**  
Assessment Year: 2012-13

Sh. Nirvair Singh  
H. No. 14, Daburji G. T. Road,  
Vill. Bhagatupura, Amritsar

Vs.

Income Tax Officer,  
Ward4(3),Amritsar

[PAN: CVBPS0398R]

**(Appellant)**

**(Respondent)**

Appellant by : Sh. Nipun Khanna, C. A.  
Respondent by : Sh. Charan Dass, Sr. D. R.  
Date of Hearing : 07.07.2025  
Date of Pronouncement : 31.07.2025

**ORDER**

**Per Udayan Dasgupta, J.M.:**

This appeal is filed by the assessee against the order of Id. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 30.09.2024 passed u/s 250 of the Act, 61, which has emanated from the order of the ITO, Ward 4(3), Amritsar, dated 27.12.2017, passed u/s 143(3) r.w.s. 147 of the Act, 1961.

2. Grounds of appeal taken by the assessee in Form No. 36 are as follows:

- “1. *That the order passed by the worthy CIT (Appeals) and the Ld. Assessing Officer is illegal and arbitrary and this ground of appeal pervades other grounds of appeal too.*
2. *That the worthy CIT (Appeals) has erred on law and facts by not considering the peak credit calculation accepted by the then worthy CIT (Appeals) -2, Amritsar in order u/s 250 for AY 2011-12 where it was specifically mentioned by the then worthy CIT(Appeals) -2, Amritsar that peak credit as calculated for AY 2011-12 shall be carried forward for to AY 2012-13.*
3. *That the order passed by the worthy CIT (Appeals) is illegal and invalid as the worthy CIT (appeals) has not considered the peak credit calculation of the assessee as was duly accepted in the order passed by the then worthy CIT (Appeals)-2, Amritsar for AY 2011-12 dated 22.10.2019 where closing cash-in-hand balance as on 31.03.2011 was accepted at Rs. 8,78,908/- which should have been taken as opening cash balance as on 01.04.2011 for FY 2011-12 (AY 2012-13) for calculation of negative cash balance of the assessee for AY 2012-13.*
4. *That the order passed by the Ld. Assessing officer and further upheld by worthy CIT (Appeals) is infructuous and bad in law as the Ld. Assessing officer erred on law and facts in making addition of Rs. 11,74,661/- by forcibly creating negative cash flow statement and inserting payments made through bank account as made in cash and also not following the rationale of peak credit and telescoping.*
5. *That the order passed by the Ld. Assessing officer and further upheld by worthy CIT (Appeals) is infructuous and bad in law as the Ld. Assessing officer had erred on law and facts by making addition of Rs. 7628655/- (Seventy Six Lacs Twenty Eight Thousand Six hundred Fifty Five) made by the Id. Assessing Officer by adding only credit side of accounts maintained by assessee in his children name and not giving any basic accounting treatment to cash outflows from the account. The addition has*

*been done without appreciation the accounting rationale of peak working and telescoping and it is arbitrary. That on facts and in law in the interest of equity and justice addition of Rs. 7628655/- needs to be deleted.*

6. *That the order passed by the Ld. Assessing officer and further upheld by worthy CIT (Appeals) is infructuous and bad in law as the Ld. Assessing officer had not Erred on law by not issuing us any show cause notice asking specific proposed disallowances along with necessary evidence /reasons for forming same which in contravention to CBDT Instruction Number 20/2015 Dated 29/12/2015.*
7. *That the order passed by the Ld. Assessing officer and further upheld by worthy CIT (Appeals) is infructuous and bad in law as the Ld. Assessing officer had erred on law and facts in making addition of Rs. 58,650/- on account of saving bank interest without giving cognizance to fact that interest income is accrued in hands of children and not assessee.*
8. *That the appellant prays leave to add, amend or press new ground of appeal before the hearing of appeal.”*

3. Apart from the aforesaid grounds, the assessee in course of appellate proceedings raised an additional ground which is reproduced below for easy reference:

*“The appellant is hereby raising additional grounds of appeal regarding the validity of additions made without mentioning specific section/ precise provision in the assessment order and that the assessment order and impugned additions made on reasons other than those recorded for initiation of assessment proceedings u/s 147 of the Act and that the.*

*The appellant states that the additional grounds, being legal grounds arising from the records, the appellant may be permitted to raise the same. In Jute Corporation of India Ltd.*

*V. CIT [1990] 53 Taxman 85/(1991) 187 ITR 688 (SC), National Thermal Power Co. Ltd. V. CIT (1998) 97 Taxman 358/229 ITR 383 (SC), the Hon'ble Supreme Court held that additional grounds on question of law can be raised at any point of time.”*

“9. That the order passed by the Ld. Assessing officer and further upheld by worthy CIT (Appeals) is illegal and invalid since the Ld. Assessing Officer has erred on law and facts by making the impugned additions without mentioning or invoking any specific section/precise provision in which addition is being made which is against the basic principles of law and natural justice.

10. That the order passed by the Ld. Assessing Officer and further upheld by worthy CIT (Appeals) is illegal and invalid since the Ld. Assessing Officer erred on law and facts in making addition on grounds other than reasons recorded for opening assessment u/s 148 as the case was opened for reasons recorded evasion of capital gain whereas additions are made on altogether different grounds.”

4. Brief facts emerging from the records are that proceedings for this year was reopened u/s 148 of the Act due to reasons of escapement of capital gains arising on sale of agricultural lands (*treated as capital assets*), against which the assessee has claimed exemption u/s 54B on account of purchase of lands used for agricultural activity. On perusal of details of investment in land purchase *vis a vis* the bank accounts in the name of the assessee and his family members ( *wife and children* ) and the cash flow statement prepared during course of scrutiny, negative cash balance emerged ( *as per the observation of the AO contained in para – 7 to 7.1 of the assessment order* ) amounting to Rs. 11.74 lakhs, resulting in an addition of the said amount.

5. It is further seen from the record that during the assessment proceedings for the assessment year 2012-13, that various credit entries in the bank account existing in the name of the children of the assessee maintained with *PNB ( A/c No . 009661 )* and in *Punjab Gramin Bank (A/c 449009)* totaling to *Rs. 76.28 lakhs* could not be explained resulting in an addition of the same amount along with the interest of *Rs. 58,650/-* earned from the said two bank accounts.

The first appellate authority dismissed the appeal by concluding as under:

*6.3 Ground No.3:In this ground the appellant has contested the addition of Rs.11,74,661/- made by the AO, The AO provided the appellant to explain a cash deposited worth Rs.11,74,661/- in the Bank accounts during the course of assessment proceedings. Since the appellant could not explain the source of cash hence, the AO made the addition.*

*6.3.1 Now before me in the appellate proceedings, the appellant filed written submission. The source of cash has not been explain before me. It has been mentioned that the appellant is an agriculturist and is an illiterate assessee has withdrawn money from its children's accounts. Hence, the appellant should be given the rationale peak credit and telescoping. This is allowed in the regular business of cash like grocery, FMCG and any other cash business. The appellant could not explain the source of cash before me. Hence the addition of the of the AO worth Rs. 11,74,661/- is confirmed and appeal of the appellant on this ground is dismissed.*

*6.4 Ground No.4:In this ground the appellant challenged the addition of Rs.76,28,655/-on account of unexplained credit entry in the bank accounts. The AO made the addition as the appellant could not explain the same during the assessment proceedings.*

*6.4.1 Now before me in the appellant proceedings, again it has been mentioned that the appellant is an illiterate person and hence the appellant should be allowed the rationale peak credit and telescoping. This is allowed in the regular business of cash like grocery, FMCG and any other cash business. The appellant could not explain the source of cash before me. Hence the addition of the of the AO worth Rs.76,28,655/- is confirmed and appeal of the appellant on this ground is dismissed.”*

6. In course of hearing, before the Tribunal, it was pointed out by the ld. AR of the assessee that the ld. CIT(A) while adjudicating the appellate proceedings failed to take into cognizance the order passed by the *ld. CIT(A) for assessment year 2011-12 dated 22.02.2019* in which it was held that all the eight bank accounts owned by the assessee and his family members shall be considered for the purpose of preparation of the consolidated cash flow statement of the appellant since this is a family hotchpotch of funds and bank accounts, despite the fact that the appellant duly informed the ld. CIT(A)s during *appellate proceedings of AY 2012-13* that the debit and credits of all the eight bank accounts of the appellant and his family members shall be taken into consideration. He further submitted that the following bank accounts are to be considered for the said purpose.

<b>Sr. No.</b>	<b>Bank Name</b>	<b>Account</b>	<b>Bank Account Number</b>	<b>Account Holder Name</b>	<b>Relation</b>
1.	Punjab Bank	National	09090001097013	Nirvair Singh	Appellant
2.	State Patiala	Bank of	65073457844	Nirvair Singh	Appellant
3.	Punjab Bank	Gramin	84120199447092	Nirvair Singh	Appellant
4.	State Patiala	Bank of	65073457731	Baljit Kaur	Wife of Appellant
5.	Punjab Bank	National	090900010196661	Sukhchandan Singh and Rajbir	Sons . of Appellant

				Singh	
6.	Punjab Bank	Gram in	84120199449009	Rajbir Singh and Sukhchandan Singh	Sons of Appellant
7.	State Patiala	Bank of	65073457822	Sukhchandan Singh	Son of Appellant
8.	State Patiala	Bank of	65073457797	Rajbir Singh	Son of Appellant

7. It was further submitted that the closing cash in hand has been determined for financial year 2010-11 vide order dated 250 passed by the ld. CIT(A) Amritsar dated 22.10.2019 for the assessment year 2011-12 and the same was to be carried forward

to form the opening cash balance as on 1<sup>st</sup> April, 2011 ( *which as claimed by the assessee is Rs.59.17 lakhs* ) and if the said figure is considered there will be no issue of any negative cash balance .

8. We find that the factual aspect of this year under appeal are closely connected and linked with the facts as arrived at by the department in the course of set aside proceedings , *vide order dated 21/03/2025 u/s 147 rws 254 for the Asst year 2011-12.*

9. Regarding the addition of *Rs. 76.28 lakhs* arising out of credit entries in bank accounts of the children of the assessee , the source of the same has been explained by the assessee *vide two tables* which are reproduced for ready reference to have come out of loans against Bank F.D., amount received from *Venus County Developers (P) Ltd.*, transfer of funds from KCC A/c, cheque received from Amarjeet Kaur (daughter of assessee).

- j) The details of credit entries in A/c No. 0909001010096661 with Punjab National Bank for which impugned addition of Rs. 34,78,655/- has been made are as follows:

**Table 1:**

S. No.	Date	Amount	Narration	Relevant Enclosure
1.	02.04.2011	14,98,655/-	Amount transferred from Loan against FDR Account No. PC2562	<ul style="list-style-type: none"> <li>• Copy of A/c No. PC2562 enclosed at Page No. <u>85</u></li> <li>• Copy of FDR A/c No. 090900PS00000203 of Rs. 10,00,000/- enclosed at Page No. <u>86</u></li> <li>• Copy of FDR A/c No. 090900PS00000221 of Rs. 31,00,000/- enclosed at Page No. <u>87</u></li> </ul>
2.	10.08.2011	5,00,000/-	Amount received from Venus County Developers Pvt. Ltd.	<ul style="list-style-type: none"> <li>• Reflected in Copy of Account of Venus County Developers Pvt. Ltd. enclosed at Page No. <u>88-90</u></li> <li>• Copy of Finacle printouts for entry of Rs. 5,00,000/- received from Venus County enclosed at Page No. <u>91</u></li> </ul>
3.	10.08.2011	5,00,000/-	Amount received from Venus County Developers Pvt. Ltd.	<ul style="list-style-type: none"> <li>• Reflected in Copy of Account of Venus County Developers Pvt. Ltd. enclosed at Page No. <u>88-90</u></li> </ul>

*Handwritten signature*

				<ul style="list-style-type: none"> <li>Copy of Finacle printouts for entry of Rs. 5,00,000/- received from Venus County enclosed at Page No. <u>92</u></li> </ul>
4.	30.06.2011	9,80,000/-	Amount transferred from KCC Account No. 0909008800001845	Account Statement of KCC Account No. 0909008800001845 enclosed enclosed at Page No. <u>93</u>
	<b>TOTAL</b>	<b>34,78,655/-</b>		

**Table 2:**

S. No.	Date	Amount	Narration	Relevant Enclosures
1.	18.11.2011	20,00,000/-	Amount received from Venus County	Reflected in Copy of Account of Venus County Developers Pvt. Ltd. enclosed at Page No. <u>94</u>
2.	18.11.2011	20,00,000/-	Amount received from Venus County	Reflected in Copy of Account of Venus County Developers Pvt. Ltd. enclosed at Page No. <u>95</u>

3.	14.02.2012	1,50,000/-	Cheque received from Amarjeet Kaur D/O Nirvair Singh	Confirmation from Bank and PAN of Amarjeet Kaur enclosed at Page No. <u>96</u>
	<b>TOTAL</b>	<b>41,50,000/-</b>		

However, we find that there is no specific findings of the Ld first appellate authority on this issue and this matter needs proper verification.

10. The Ld DR relied on the order of the CIT ( A ) , and has no objection if the matter is remanded back to the AO for fresh verification in consultation with immediately earlier years records, because both are undeniably linked .

11. We have considered the materials on record and the rival submissions and we find that the matter for the AY 2011-12 , was before the Assessing Officer who has made thorough investigation of the facts and has looked into the evidence presented by the appellant and has analyzed the source regarding the payment made for purchase of all land. It is claimed to have been paid through bank (*not in cash*). As such, we are of the opinion that for proper adjudication of the matter for this year under appeal on various aspects, contained in the grounds of appeal the cash flow statement of the appellant for the period *01.04.2010 to 31.03.2011* and also for the

year (01.04.2011 to 31.03.2012) (i.e.) the year under appeal are to be considered in tandem together *vis-à-vis* all the eight bank accounts belonging to the assessee and family (*wife and children*).

12. As such, we are of the opinion that the in the interest of justice and for proper adjudication of the matter, we set aside the case back to the files of the Assessing Officer for fresh assessment after considering all the material and documentary evidences available on record and the assessee is also directed to file all documentary evidences and his submissions for proper adjudication and to fully cooperate in fresh assessment proceedings.

13. We have not expressed any opinion on merits and all issues are kept open.

14. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in accordance with Rule 34(4) of the Income Tax (Appellate Tribunal) Rules, 1963 as on 31.07.2025.

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
**Accountant Member**

**Sd/-**  
**(Udayan Dasgupta)**  
**Judicial Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT concerned
- (4) The Sr. DR, I.T.A.T

True Copy  
By Order