**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

**ITA No.284 of 2014**
Date of decision:25.05.2015

Dalip Singh

....Appellant

Versus

Income Tax Officer, Muktsar

......Respondent

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE**
**HON'BLE MR.JUSTICE G.S.SANDHAWALIA**

Present: Mr.Sandeep Goyal, Advocate, for the appellant.

Mr.Rohit Kaul, Advocate, for
Mr.G.S.Hooda, for the respondent.

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**S.J.Vazifdar, Acting Chief Justice** (Oral):

1. This is an appeal against the order of the Income Tax Appellate Tribunal, Amritsar (for short, the 'Tribunal') dated 27.03.2014 (Annexure A-7), upholding the decision of the Commissioner of Income Tax (Appeals) (for short, the 'CIT'), which in turn, computed the balance of the long term capital gains in respect of the land sold by the appellant at ₹55,93,517/-. The matter pertains to the assessment year 2006-07.

2. A search was conducted at the premises of one Rajan Setia. The documents seized at the search reflected transactions between the said Mr.Setia and one Y.Lali, who in turn, had purchased various pieces of land *inter alia* from the appellant's brother. The documents seized indicated that the lands were sold at a rate of about ₹19,837/- per marla. In the re-assessment proceedings, it is this rate which has been applied in the case of the appellant's transactions.

3. The appeal is admitted on the following substantial questions of law:

> "1. Whether on the facts and circumstances of the case, the Ld. AO was justified in framing assessment u/s 147 and applying the same sale price to the land sold by the appellant, which was sold in a different year?
> 2. Whether on the facts and circumstances of the case, the Ld. AO was justified in applying the same sale price to the land sold by the appellant vis-a-vis land sold by Shri Surjit Singh though the lands were sold by the appellant one year before the sale of land by Shri Surjit Singh?
> 3. Whether on the facts and circumstances of the case, the Ld. AO was justified in applying the same rate of sale price of land as applied by Shri Surjit Singh even though the land of Shri Surjit Singh was located opposite to Office of Deputy Commissioner and was on the road whereas property of the appellant was on back of land of Shri Surjit Singh and would fetch lesser price?"

4. By an order dated 06.02.2015, the earlier Division Bench noticed the submission on behalf of the appellant's counsel that the only argument that he pressed was that even if it is accepted that a contiguous piece of land was sold @ ₹19,000/- per marla, in the financial year 2006-07, the said rate could not be applied to a transaction of the year 2005-06. The appellant's transaction pertains to the year 2005-06. This concession was rightly made as the proceedings under Sections 147 & 148 of the Income Tax Act, 1961 (for short, the 'Act') cannot be faulted. There were sufficient grounds for the authorities to believe that income had escaped assessment on account of the appellant's failure to point out all the relevant facts.

5. *Prima facie*, it does appear that the rate of about ₹5000/-, as mentioned in the documents pertaining to the appellant's transaction, are very low. The only reason why we have decided to interfere with the orders of the authorities is that there does not appear to be even any attempt at arriving at the real/actual rate. There are certain aspects which require consideration. For instance, the rate of ₹19,837/- per marla was in respect of the transaction in the

year 2006-07 whereas the appellant's transaction was in the previous year. There is a possibility, to say the least, of the prices having increased during the year. There are certain other aspects which require consideration such as the fact that the appellant's lands were not on the main road but behind those which abutted the main road and the lands that abutted the main road fetched the price of ₹19,837/- per marla.

6. The questions of law are, therefore, answered in favour of the assessee/appellant, only for this limited reason, namely, the authorities ought to have made an effort to ascertain the price rather than merely relying upon the rate at which the lands were sold in the subsequent year.

7. The appeal is, accordingly, allowed. The impugned order dated 27.03.2014 (Annexure A-7) is set aside and the matter is remanded to the Assessing Officer, only for the limited purpose of ascertaining the rate at which the appellant could have sold his lands. Considering the nature of the matter, we would request the Assessing Officer to complete the exercise within 12 weeks from today. He shall not entertain any application for adjournment from the appellant.

**(S.J.Vazifdar)**
**Acting Chief Justice**

**25.05.2015**
**sailesh**

**(G.S.Sandhawalia)**
**Judge**