

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

ITA-235-2015 (O&M)

Date of decision:- 02.07.2015

Ved Parkash

...Appellant

Versus

Commissioner of Income Tax (Appeals), Chandigarh and others

...Respondents

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

Present: Mr. Tribhawan Singla, Advocate,
for the appellant.

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S.J. VAZIFDAR, A.C.J. (ORAL)

This is an appeal against the order of the Income Tax Appellate Tribunal dismissing the appeal against the order of the CIT (Appeals).

2. The matter pertains to the assessment year 2009-2010. The AO noticed a cash deposit in the appellant's savings bank account of ₹ 11,04,167/-. The amount had been deposited in cash in the appellant's bank account. The AO observed that the gross turn-over was only ₹ 4,21,855/- and, therefore, the cash cannot be related to the appellant's business transactions. This finding was also on account of the fact that the appellant had not produced any sale/purchase details. The AO, therefore, made an addition of ₹ 11,04,167/-. The CIT (Appeals) noted that the appellant had initially stated that he was not maintaining any regular books of accounts and later he submitted that the books of accounts were complete. Only a computerized cash book had been filed without any bills/vouchers. In these circumstances, the appellant's case that he had been maintaining accounts was not acceptable. The CIT (Appeals), however, accepted the contention that the AO ought not to have treated the cash deposit as income without considering the cash withdrawals from the same bank. The CIT (Appeals), therefore, fairly granted the appellant relief by directing the AO to make addition of only peak of the deposits in the bank account after getting the details from the appellant. These are pure questions of fact which require the appreciation of evidence. No question of law much less a substantial question of law arises in this regard.

3. The AO had also found that the appellant had deposited a sum of ₹ 12,30,500/- in another bank account. The appellant's case is that this amount was deposited out of the sale consideration of a plot or land which was sold for ₹ 75,68,761/-. The appellant's further case was that he had a half share and that the deposit was made from the sale proceeds received by him. The appellant also contended that this plot was purchased earlier by selling his old house for ₹ 12 lacs. As no details were filed regarding the purchase of the earlier house, the AO did not accept the fact of sale of the old house and subjected the sale consideration amounting to ₹ 37,84,380/- as short term capital gain. The appellant's case regarding these transactions are purely questions of fact. The CIT (Appeals) in fact again directed the AO to allow ₹ 12,85,500/- on account of cost of acquisition of the earlier property and granted the appellant relief to that extent. The cost of acquisition of the new property was, therefore, reduced from half of the sale price taxed by the AO as capital gain. Accordingly, the short term capital gain was held by the CIT (Appeals) to be ₹ 25,01,880/-. The second issue also does not raise a substantial question of law.

4. The appeal is accordingly dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

02.07.2015
Amodh