IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-523-2017 (O&M)
Date of decision:- 24.01.2018

Rishi Ram

...Appellant

Versus

Commissioner of Income Tax, Karnal

...Respondent

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present:- Mr. Arun Singal, Advocate,
for the appellant.

* * * *

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

This is an appeal against the order the Income Tax Appellate Tribunal dated 28.06.2017 confirming the order of the CIT (Appeals) dated 28.11.2013 which in turn had dismissed the appeal against the order of the Assessing Officer dated 08.12.2008. The appeal pertains to the assessment year 2001-2002.

2. According to the appellant, the following substantial questions of law arise in this appeal:-

> *(i) Whether in the facts and circumstances of the case Ld. Income Tax Appellate Tribunal erred in law to hold that agreement dated 06.10.2000 which is not signed by the vendee is a valid agreement?*
>
> *(ii) Whether in the facts and circumstances of the case Ld. Income Tax Appellate Tribunal erred in law to ignore the registered sale deed dated 19.01.2001 and 01.02.2001 and rely upon an unregistered sale agreement dated 06.10.2000 which is not signed by the vendee?*

> *(iii) Whether in the facts and circumstances of the case Ld. Income Tax Appellate Tribunal erred in law in relying upon the photocopy of Annexure A-3 to fix the value of House No. 295-R, Model Town, Panipat?*
>
> *(iv) Whether in the facts and circumstances of the case Ld. Income Tax Appellate Tribunal erred in law in relying upon the statement of a person whose veracity could not be tested by the appellant by cross examining him?*
>
> *(v) Whether in the facts and circumstances of the case Ld. Income Tax Appellate Tribunal erred in law fixing the long term capital gain ignoring the value of the property and the improvements made thereon and basing its decision solely on a document which is not enforceable in law?*
>
> *(vi) Whether the orders of the Ld. Income Tax Appellate Tribunal is perverse as the same is based on incorrect application of the provisions of law?*

3. The issue really is only one. It is whether the apparent consideration in the documents of sale dated 19.01.2001 and 01.02.2001 of ₹ 3.60 lacs and ₹ 3.40 lacs were the actual consideration received by the appellant or not. During the search carried out in the premises of a third party, the authorities found an agreement dated 06.10.2000 in which consideration of ₹ 21 lacs was mentioned, albeit with another prospective purchaser, namely, one Rakesh Dogra. The agreement was signed by the assessee. It was not signed by the prospective purchaser. An amount of ₹ 2.10 lacs received as an advance by the appellant was, however, pursuant to that agreement. All three authorities under the Income Tax Act, 1961 came to the conclusion that the actual value of the property

was higher and in any event was not the apparent consideration mentioned in the agreements of sale dated 19.01.2001 and 01.02.2001. The reliance upon the agreement found during the search cannot be said to be unfounded or irrational. The appellant admits to have signed the same. There is no explanation as to why the price fell from ₹21 lacs to ₹7 lacs. There is no evidence on record to indicate that there was any default on the part of the prospective purchaser compelling the appellant to enter into the agreement which was finally entered into.

4. A substantial question of law does not arise. The conclusions are based on an appreciation of the facts which we are unable to hold as perverse or irrational.

5. The appeal is, therefore, dismissed.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

24.01.2018
Amodh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No