388-1

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

****

ITA No.125 of 2000
Date of Decision: 03.03.2020

Shri Sarishti Paul

Appellant

Versus

Commissioner of Income Tax, Jalandhar and another

Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Alok Mittal, Advocate
for the appellant.

Mr. Vivek Sethi, Sr. Standing Counsel and
Mr. Varun Isshar, Jr. Standing Counsel
for the Revenue.

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AJAY TEWARI, J. (Oral)

[1] This appeal has been filed under Section 260A of the Income Tax Act, 1961 against the order passed by the Income Tax Appellate Tribunal, Amritsar, challenging an addition of ₹2,48,048/-, which as per the Revenue, was unexplained investment for construction which the appellant had carried out claiming following substantial questions of law:-

> *"(i) Whether in the facts and circumstances of the case, the orders Annexures P-1, P-2 and P-6 can be sustained at law?*
>
> *(ii) Whether in the facts and circumstances of the case, the addition of Rs.2,48,048/- on account of alleged unexplained investment in the construction of factory building at Noida can be legally sustained in as much as the construction of the building was over a span of three years whereas the addiiton*

on account of difference has been made in one assessment year alone?

(iii) Whether in the facts and circumstances of the case, the addition of Rs.2,48,048/- on account of alleged unexplained investment in the construction of factory building at Noida can be legally sustained in as much as the rate taken by te D.V.O. as per the Office premises and not per the factory rate as the building constructed at Noida were factory premises of the assessee-appellant?

(iv) Whether in the facts and circumstances of the case, the addition of Rs.2,48,048/- on account of alleged unexplained investment in the construction of factory building at Noida can be sustained at law the same being based on mere presumptions and conjectures which can not form the basis for adjudication?"

[2] On 27.01.2020, following order was passed:-

"The issue which arises in these two appeals is whether unexplained income could be added in the single year of assessement or whether it had to travel back towards relevant years in which the construction was done.

Adjourned to 04.02.2020.

A photocopy of this order be placed on the file of connected case(s)."

[3] On 10.02.2020, learned counsel for the Revenue stated that the issue which had been raised could not be verified by him as the record is not available.

[4] Today again learned counsel for the Revenue states that record is not available. He is not in a position to deny that in such a case the addition would have to be made for the period in which construction was carried out and could not be totaled at in the last

year.

[5] Learned counsel for the appellant states that the appellant has certain material which may enable the authorities below to decide this issue.

[6] In these circumstances, the appeal is allowed. The impugned order qua addition of ₹2,48,048/- is set aside and matter is remanded back to the assessing officer to work out the tax liability as per law after considering the material which the appellant may produce.

[7] Since the appeal is disposed of, the pending application, if any, also stands disposed of.

[AJAY TEWARI]
JUDGE

[AVNEESH JHINGAN]
JUDGE

March 03, 2020
pankaj baweja

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No