IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA No.44 of 2022 (O&M)
Date of decision: 23.02.2023

Principal Commissioner of Income Tax-1, Chandigarh

…Appellant

Vs.

Sh. Binder Pal Mittal

…Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Gauri Neo Rampal, Senior Standing Counsel, for the appellant.

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Ritu Bahri, J. (oral)

The instant appeal under Section 260A of the Income Tax Act, 1961, has been filed against the order dated 19.04.2021 (Annexure A-3) passed by the Income Tax Appellate Tribunal, Bench 'A', Chandigarh, whereby appeal (ITA No.1297/CHD/2019) filed by the assessee-respondent against the order dated 20.06.2019 passed by the Commissioner of Income Tax (Appeals)-3, Gurgaon, has been accepted.

Brief facts of the case are that the respondent-assessee filed his return of income for the assessment year 2010-11, declaring total income of Rs.1,29,51,314/-. The said return was accepted and assessment order under Section 153A (1) (b) read with Section 143 (3) of the Income Tax Act was passed. The assessee had received a gift of Rs.10,15,584/- from Sh. Binder Pal (HUF) and had claimed the same to be exempted contending that the gift received from HUF, wherein assessee is the *Karta* is not taxable under Section 56(2) of the Act.

Thereafter, during re-assessment proceedings, the Assessing Officer rejected the contention of the assessee and made addition of Rs.10,15,584/- and determined the total income of the assessee at Rs.1,10,25,934/-. The respondent-assessee challenged the said order before the Commissioner of Income Tax (Appeals), which was dismissed vide order dated 20.06.2019 (Annexure A-2). Feeling aggrieved, the assessee filed an appeal before the Tribunal.

The Tribunal, after hearing both the parties, observed that a coordinate Bench in ***Sh. Pankil Garg vs. Pr. CIT,*** ITA No.773/Chd/2018 (decided on 17.07.2019) while considering an identical issue, had taken a decision in favour of the assessee. The department was not able to place on record any material to show that the order dated 17.07.2019 had been challenged by the revenue before any Court or the same has been stayed by the Court. Reference was made to the orders passed by the Rajkot Bench of the Tribunal in ***Vineetkumar Raghuvjibhai Bhalodia vs. ITO,*** 12 ITR 616 (Rajkot Tribunal) and Hyderabad Bench of the Tribunal in case of Biravelli Bhaskar vs. ITO, 44 CcH 234 ITA (Hyd.Tri.), wherein identical issues have been decided in favour of the assesses by holding that HUF consists of all persons lineally descended from a common ancestor and includes their mothers, wives or widows and unmarried daughters. All these persons fall within the definition of relative as provided in explanation to Section 56 (2) (vi). Finally, the Tribunal allowed the appeal filed by the assessee on the ground that HUF is a group of relatives and a gift received from relative, whether from an individual relative or from a group of relatives, is exempted from tax under the provisions of Section 56 (2) (vi) of the Act.

Learned counsel for the appellant is not able to cite any judgment against the ratio of the above said judgment, wherein it has been held that HUF is an identity which consists of all persons and relatives and a gift received from one of the members of HUF is not eligible to income tax.

After hearing learned counsel for the appellant, no ground is made out to interfere in the impugned order as the same has been passed after appreciating the evidence in the right perspective. No substantial question of law arises for consideration.

Resultantly, finding no merit, the present appeal is dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

23.02.2023
ajp

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