HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-643-2005 (O&M)
Reserved on: 01.03.2023
Pronounced on: 24.03.2023

Charangjit Singh Channi

...Appellant

Vs.

C.I.T., Central Circle-1, Jalandhar

...Respondent

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

Present: Mr. S.K.Mukhi, Advocate
for the appellant.

Ms. Pridhi Jaswinder Sandhu, Junior Standing Counsel
for the respondent.

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Ritu Bahri, J.

CM-24970-CII-2005

Application is allowed and Annexures A-1 to A-16 are taken on record.

ITA-643-2005

The present appeal has been filed by Charanjit Singh Channi as proprietor of M/s. Brightways Property Dealers against the order by ITAT Chandigarh Bench in ITA No. 726 (ASR)/1998 dated 27.06.2005 (Annexure A-1).

Before the Tribunal, the assessee had not appeared through counsel but had given his written submissions and after giving opportunity to the parties, the Tribunal proceeded to hear the arguments addressed by the D.R. and took into account the written submissions and proceeded to dispose of the appeal.

The assessee, in the present case, derived income from real estate business (property dealer). Search and seizure operation was carried out on the business as well as the residential premises of the assessee on 10.02.1995. During the search, number of assets and incriminating documents were found from the residential and business premises and cash jewellery were seized during the search. The assessee filed a return of Rs. 12 lacs on 29.06.1995 for the assessment year 1995-96 which was duly processed under Section 143(1)(a). Thereafter, statutory notices under Section 143(2)/142(1) were issued. Search and seizure operations were carried out on the business as well as residential premises of the assessee on 10.02.1995. After collecting the documents, the Assessing Officer gave a finding that except an amount of Rs.80,000/- withdrawn from saving bank account no. 12314 with Punjab National Bank, New Jawahar Nagar, Jalandhar, the assessee was not able to adduce evidence with regard to other pleas. So, an amount of Rs.45,091/- remained unexplained and the same was added to the declared income of the assessee. With respect to cash found on the business premises, the assessee explained the cash amount of Rs.5,37,000/- out of Rs.6,80,000/- leaving an amount of Rs.1,43,000/- as unexplained. This amount was considered as assessee income from undisclosed sources and was added to the declared income.

With respect to jewellery, no adverse inference was drawn. With respect to incriminating documents, an amount of Rs.15,000/- was considered to be income of the assessee from undisclosed sources. The panchnama (Annexure A-1) was prepared with respect to earnest money received through plot Nos. 151, 159, 160 and 161 situated in J.P. Nagar

Jalandhar. He failed to explain as to how he got amount of Rs.10,500/- each from Mohinder Pal, Manjit Singh, Ranbir Singh and Rajinder Singh. Accordingly, an amount of Rs.42,000/- (10,500X4) was added to the income of the assessee as per panchnama (Annexure A-1). As per panchnama (Annexure B-1), he was asked to show amount of commission as Rs.60,000/- which was recorded in his regular books of account. However, it was inferred that amount of Rs.60,000/- earned by him by way of commission was not recorded in the books of a/c. Hence, Rs.60,000/- was also added to the declared income of the assessee. Further, the amount of Rs.2,75,000/- was considered as investment made by the assessee for brick kiln out of the undisclosed sources. The said amount was also added to the income of the assess. An amount of Rs.3,01,000/- was considered as income of the assessee earned from a property from undisclosed sources. The said amount was added to the income of the assessee. Further, as per the documents seized from business premises, there was a sale transaction of plot No. 26 in Green Avenue, measuring 10.45 Marlas for the total amount of Rs.1,53,200/-, the explanation of which was not conceivable. Hence, the said amount was added to the income of the assessee. Finally, the total added income of the assessee was determined as Rs.8,46,200/- (Rs.15,000+Rs.42,000+Rs.60,000+2,75,000+3,01,000+1,53,200).

Since Rs.10 lacs was already surrendered by the assessee during the search, the amount of Rs. 8,46,200/- was deleted from Rs. 10 lacs and now the remaining amount i.e. Rs. 1,53,800/- still remained to be adjusted out of the voluntary surrender made by the assessee (at page no. 56 of the paper-book). Further, an addition of Rs. 7, 69, 091/- was made as income of the assessee, the details of which are mentioned at page No. 56 of the paper-book. Out of Rs.7,69,091/-, an amount of Rs.1,53,800/- was deleted giving credit to the assessee. Now, the additional income of Rs.6,15,291/- was made and re-assessment was done as under:-

Income as returned:	12,00,000/-
Add:	
An addition of Rs.6,15,291/- is made to the assessee' income	6,15,291/-
Total Taxable income	Rs.18,15,291/-

A perusal of the order dated 24.09.1998 passed by the Commissioner of Income Tax (Appeals) (Annexure A-3) shows that the Assessing Officer had worked out total addition as Rs.16,15,291/-. The relevant para is reproduced as under:-

14.1 The A.O. had worked out total addition of Rs.8,46,200/- in para 6.1 to 6.6 and further addition of Rs.7,69,091/- in para 4, 4.1, 7,8 and 9 of the asst. order. Thus the total addition discussed came to Rs.16,15,291/- (8,46,200+7,69,091). The assessee had surrendered Rs.10 lacs. After giving credit for the same, the A.O. made net addition of Rs.6,15,291/- to the returned income. As discussed above, the addition of more than Rs.6,15,291/- have been deleted (45,091+1,43000+2,75,000+4,25,000+56,000) and therefore net addition of Rs.6,15,291/- made by the A.O. is deleted.

The CIT (Appeals) partly allowed the appeal of the assessee with the above observations vide order dated 24.09.1998 (Annexure A-3). The revenue filed an appeal and assessee filed cross objections to the said order before the Tribunal. The Tribunal held that an amount of Rs.1 lac was rightly added as income of the assessee from undisclosed source as this was reflected by the assessee as NRE gift. Finally, the Tribunal partly allowed the appeal of the Revenue vide order dated 27.06.2005 (Annexure A-1).

After the order dated 24.09.1998 by the appellate authority (Annexure A-3) and before the Tribunal, the assessee had got relief of Rs.6,15,291/- by deleting the said amount from his income. On a meager amount of Rs. 1 lac, the petitioner filed an appeal before this Court. There is no ground to entertain this appeal as income of Rs. 12 lacs as declared by the petitioner has been accepted and deletion of Rs.6,15,291/- has already been made by the Tribunal

The argument of the learned counsel for the appellant that addition of Rs. 1 lac towards income as a gift given by NRE, is liable to be rejected as the petitioner failed to explain its source and genuineness of the gift.

Learned counsel for the appellant has referred to the judgments which are not applicable in the facts of the present case.

Hence, no substantial question of law survives in its appeal and is dismissed.

(RITU BAHRI)
JUDGE

24.03.2023 **(MANISHA BATRA)**
Divyanshi **JUDGE**

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