IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(102) **CWP-28294-2023 (O&M)**
Decided on : 16.12.2023

Hari Singh

……Petitioner(s)

Versus

State Bank of India and others

……Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE DEEPAK MANCHANDA

Present: Mr. Nikhil Goyal, Advocate and
Mr. Rana Gurtej Singh, Advocate for the petitioner (s).

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G.S. Sandhawalia, J. (Oral)

CM-21322-CWP-2023

Application to place on record notice dated 12.12.2023 regarding disposal of objections raised by the assessee in its reply dated 27.10.2023 as Annexure P-19, is allowed, subject to just exceptions. Annexure P-19 is taken on record. Office to append the same at the appropriate place.

CM stands disposed of.

CWP-28294-2023

In the present writ petition filed under Articles 226/227 of the Constitution of India the petitioner seeks quashing of the notice dated 19.03.2022 (Annexure P-1) issued under Section 148A(b) of the Income Tax Act, 1961 (for short 'the Act') and order dated 06.04.2022 (Annexure P-3) passed under Section 148A(d) of the Act and consequential notice dated 06.04.2022 (Annexure P-4) issued under Section 148 of the Act on the ground that the same are devoid of jurisdiction.

2. A perusal of said notice (Annexure P-1) would go on to show that the reason on the basis of which notice was issued that there was cash deposits of ₹49,14,800/- in the bank account maintained with State Bank of Patiala (Now SBI) and also during the financial year 2014-2015 relevant to the Assessment Year 2015-2016 there were time deposits of ₹20 lakhs. The explanation as such given on 31.03.2022 (Annexure P-2) by the petitioner was that he was an agriculturist and the income was below the taxable amount and

he had not filed the Income Tax Return for the financial year 2014-2015. It is his case that the said amounts were deposited on various dates from October, 2014 to February, 2015 and some money deposited was out of sale receipts of live stocks and out of cash withdrawal from same bank account out of his accumulated cash savings and some cash deposited were out of cash gift received from his relatives.

3. Vide the subsequent order dated 06.04.2022 (Annexure P-3), it has been noticed that no reply has been submitted regarding source, nature and genuineness of cash deposits of ₹26,04,800/-. The petitioner had not submitted any certificate from his bank that the time deposits were purchased by his bank out of his cash deposits. It was held that in the absence of the return of income, the cash deposits and time deposits remained unexplained and needed to be brought into tax under the provisions of Section 69A of the Act. Vide order of even date (Annexure P-4), it was also noticed that prior approval of the PCIT, North-West Region has been obtained.

4. Objections raised by the petitioner have also been decided vide order dated 12.12.2023 (Annexure P-19) wherein it has been recorded that sufficient opportunities were provided to the assessee to explain the source of cash deposited in his bank account. However, he had not given any proof of sale of live stocks. Neither any certificate from his bank was submitted that the time deposits purchase was made out of his cash deposits and, therefore, in the absence of the return filed, the objections raised were found not satisfactory and the total deposits have been found of ₹69,14,800/- which is more than ₹50 lakhs.

5. Counsel has endeavored to convince us to interfere on the ground that the issue of jurisdiction was arise, since the amount was below ₹50 lakhs and, therefore, it was time barred.

6. We are of the considered opinion that it is a mixed question of fact, which will have to be gone into by the authorities below as to from which account the money was transferred as noticed, the details of the persons who had given the gifts or from where the money had come from sale of live stocks and stated to be from agricultural income and whether Form-J was available or not would all be a matter of record. This aspect is to be best left for the Assessing Officer and it is not for the writ Court to interfere in the peculiar facts and circumstances.

7. Apparently, the petitioner's first prayer is for directing the respondent No.1, the Bank to amend the information supplied to respondent No.2-income tax authorities. It is a settled principle of law that it is not for the writ Court to exercise its extra-ordinary writ jurisdiction where disputed questions arise and alternative remedies are provided under the statute. Thus, keeping in view the peculiar facts and circumstances and in view of the fact that the Tax Authorities have not found the explanation acceptable, we do not feel it is a fit case to exercise our extra-ordinary writ jurisdiction.

8. Accordingly, the present writ petition is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

16.12.2023
Naveen

Whether speaking/reasoned :	Yes	
Whether Reportable :		No