

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ITA No. 216 of 2007 (O&M)

Reserved on : 09.05.2024
Date of decision : 17.05.2024Shri Ranjit Singh Ghuman ... Appellant
versus

Commissioner of Income-Tax (Central), Ludhiana ... Respondent

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

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

Mr. Saurabh Kapoor, Senior Standing Counsel,
for the respondent.**SANJEEV PRAKASH SHARMA, J.**

Vide order dated 06.11.2007, while admitting the present Income Tax Appeal, following question of law was framed for determination by this Court:-

“Whether on the facts and circumstances of the case the Income Tax Appellate Tribunal was justified in reversing the orders of CIT(A) and, thus, wrongly confirming the addition of Rs.5,00,000/- as made by the Assessing Officer without appreciating the confirmation filed by the sister-in-law confirming the outstanding of the impugned amount and also not summoning her to verify the facts, so that so, the orders of the ITAT is illegal and perverse ?”

2. Learned counsel for the appellant submits that the addition of ₹ 5,00,000/- in the income of the appellant-assessee was wholly perverse and unjustified as the sister-in-law Smt. Jasraj Pal Ghuman had stated before the revenue authorities that a sum of ₹ 5,00,000/- was still due to be paid and

the learned counsel in support thereof, has also placed particulars of the hand written receipts of Jasraj Pal Ghuman of having received ₹ 5,00,000/- in five installments i.e. ₹ 2,05,000/-, ₹ 45,000/-, ₹ 80,000/-, ₹ 1,00,000/- and ₹ 70,000/- in various years from 2003 to 2006. Copies of the bank statements have been also placed in order to confirm the submissions made by the appellant with regard to the fact that the amount of ₹ 5,00,000/- was still due to be paid and the Income Tax authorities had wrongfully added the said amount ₹ 5,00,000/- as undisclosed income alleging that an ₹ 5,00,000/- had already been paid.

3. Learned counsel for the appellant submits that a certificate was also furnished by Smt. Jasraj Pal Ghuman stating that the amount of ₹ 5,00,000/- was still due to her and the Assessing Officer had not conducted any inquiry to find out the truth from Smt. Jasraj Pal Ghuman. She was neither summoned nor examined by the AO. He, therefore, submits that the addition was wholly perverse. He further submits that the ITAT has wrongfully set aside the order passed by the CIT (A) as there was no material to reverse the findings.

4. Learned counsel for the revenue has supported the order and submits that the ITAT is the final fact finding authority and this Court would not interfere with the order merely because it may conclude differently from what has been finally arrived at from the conclusion which have been drawn on the basis of the same facts.

5. We have considered the submissions of learned counsel for the parties.

6. As a result of the search operations conducted at the premises of the assessee, having an individual status, order was passed under Section 158 BC (c) on 26.02.2002 by the CIT, Jalandhar and while making other

additions, ₹ 5,00,000/- have been added as undisclosed investment made to acquire the rights of his sister-in-law in the family property. Total undisclosed income for the block period has been found to be ₹ 55,97,070/- against the return income of only sum of ₹ 3,82,000/-.

7. The appellant assailed the order in Appeal before the CIT(A) Ludhiana who vide his order dated 21.02.2003 set aside the findings of the Assessing Officer with regard to the addition of ₹ 5,00,000/- based on confirmation dated 24.01.2002 sent by Smt. Jasraj Pal Ghuman, whereby she had confirmed the balance amount of ₹ 5,00,000/- out of total amount of ₹ 8,69,666/- has not still been received by her. However, the ITAT vide its order dated 15.09.2006 did not agree with the findings of the CIT(A) on the issue of addition of ₹ 5,00,000/- and held that in terms of the documents on record, receipt duly signed by Smt. Jasraj Pal Ghuman, it reached to the conclusion that the amount of ₹ 5,00,000/- had already been paid but the appellant had not disclosed the source of the said amount of ₹ 5,00,000/-. It was, therefore, held to be correctly added in the account.

8. It is an admitted position that memorandum of oral family settlement was arrived at on 31.12.1991 which stipulated payments to be made. The said family settlement was found during the course of search which indicated that there were three joint owners in respect of the ancestral property i.e. House No.537, Model Town, Jalandhar. As a result of the said family settlement, the land was valued @ ₹ 26,00,000/- and building @ ₹ 3,68,000/-. One sister-in-law namely Sudarshan Ghuman was to get piece of land adjacent to said House No.537 along with a sum of ₹ 1,23,000/- from the assessee and the receipts thereto of making payment of ₹ 1,23,000/- were produced. As regards the other joint owners, apart from assessee, another



sister-in-law Smt. Jasraj Pal Ghuman was to be paid a sum of ₹ 8,69,666/- in lieu of her surrender of share in the property.

9. In terms of the family settlement above, the payment was required to be made by 30.06.1992 to the sister-in-law Smt. Jasraj Pal Ghuman. A receipt was found by the revenue authorities during search which reflected that Smt. Jasraj Pal Ghuman has stated that she has received the amount and no further payment is due from the appellant assessee. In consequence of the payment having been made, the possession of the share of her property was handed over to the assessee. The CIT (Appeal), however, proceeded to rely on the certificate issued by Smt. Jasraj Pal Ghuman after the search was conducted to state that an amount of ₹ 5,00,000/- was still due from the assessee. However, the Income Tax Appellate Authority has reached to the conclusion that such certificate could not be relied upon as it was apparent that she was trying to support the case of the assessee, who was her brother-in-law. The contention of learned counsel for the appellant that she should have been called and her statement should have been recorded is found to be without any basis. Once there is no denial to the receipt, which was found during search and the same is genuine, it would be assumed that the property was handed over after the entire payment was made. There is a demand draft receipt of ₹ 1,84,666/- and the remaining amount has been presumed to be paid by the appellant. Such a course adopted by the ITAT cannot be in any manner to be perverse.

10. We are not impressed by learned counsel for the appellant for his placing documents to show that subsequently the assessee has also paid to Smt. Jasraj Pal Ghuman the amount of ₹ 5,00,000/- in different installments from 2003 to 2006, as there is no mention that the amount is being paid in lieu of the remaining amount due i.e. ₹ 5,00,000/-.

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find that the said course adopted is subsequent to the search and findings of the Assessing Officer.

11. In **Manglore Ganesh Beedi Works Vs. Commissioner of Income Tax Mysore & Another** ; 2015 SC 378 ITR 640, the apex Court has set aside the orders passed by the High Court interfering the findings of facts of Tribunal and has held as under:-

*“19. We are not at all impressed with the submission of learned counsel for the Revenue. There is a clear finding of fact by the Tribunal that the legal expenses incurred by the Assessee were for protecting its business and that the expenses were incurred after 18th November, 1994. There is no reason to reverse this finding of fact particularly since nothing has been shown to us to conclude that the finding of fact was perverse in any manner whatsoever. That apart, if the finding of fact arrived at by the Tribunal were to be set aside, a specific question regarding a perverse finding of fact ought to have been framed by the High Court. The Revenue did not seek the framing of any such question. In this regard, reference may be made to **K.Ravindranathan Nair Vs. Commissioner of Income Tax ; [2001] 247 ITR 178 (SC)** wherein it was observed:*

“The High Court overlooked the cardinal principle that it is the Tribunal which is the final fact-finding authority. A decision on fact of the Tribunal can be gone into by the High Court only if a question has been referred to it which says that the finding of the Tribunal on facts is perverse, in the sense that it is such as could not reasonably have been arrived at on the material placed before the Tribunal. In this case, there was no such question before the High Court. Unless and until a finding of act reached by the Tribunal is canvassed before the High Court in the manner set out above, the High Court is obliged to proceed upon the findings of fact reached by the



Tribunal and to give an answer in law to the question of law that is before it.”

12. We are, therefore, unable to accept the contentions of learned counsel for the appellant on question of facts which have been finally adjudicated by the ITAT and find that there is no arbitrariness or perversity.
13. In view of the above, the appeal fails and is **dismissed**. The order passed by the ITAT is upheld. Consequences shall follow.
14. All pending application stands dismissed accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

17.05.2024
Ess Kay/ vs

(SUDEEPTI SHARMA)
JUDGE

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