

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 344/Asr/2018  
Assessment Year: 2009-10**

Shri Harpreet Singh Grover S/o Sh. Jaswant Singh, Malgodown Road Goniana Mandi (Distt. Bathinda) [PAN: AJRPG8940K]  <b>(Appellant)</b>	<b>Vs.</b>	ITO-Ward 1(1), Bathinda.          <b>(Respondent)</b>
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<b>Appellant by</b>	<b>None</b>
<b>Respondent by</b>	<b>Sh. S.M.Surendra Nath Sr.D. R.</b>

<b>Date of Hearing</b>	<b>02.03.2022</b>
<b>Date of Pronouncement</b>	<b>10.05.2022</b>

**ORDER**

**Per: Anikesh Banerjee, JM:**

The instant appeal was filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeal), Bathinda [in brevity the CIT(A)] bearing appeal no. 210-IT/16-17, date of order 20.03.2018, the order passed u/s 250(6) of the IT Act 1961, [in brevity the Act] for A.Y.2009-10. The said order is originated

from the order of the ld. ITO, Ward -1(1), Bathinda (in brevity AO), order passed u/s 144 of the Act date of order 01.12.2016.

2. Brief fact is that the ld. AO added back the cash deposit of Rs.47,91,000/- of assessee, deposited in the State Bank of Patiala Goniana bearing a/c no. 65035132671 which was added back u/s 69 of the Act with the total income of the assessee.

3. The aggrieved assessee filed an appeal before the ld. CIT(A), the ld. CIT(A) considered the submission of the assessee and reduced the addition of amount to Rs.28,95,000/- out of the total cash deposit amount to Rs.47,91,000/-. The amount was sustained for addition amount to Rs.18,96,000/- after appeal. For the balance addition the assessee filed an appeal before us.

4. The ld. DR relied on the order of the ld. CIT(A) which is extracted as follows:

*“4.2 I have given careful consideration to the contentions of the appellant as under:*

*a) On 29/02/2009, an amount of Rs. 35 lakhs has been claimed to have been withdrawn as cash by self cheque vide cheque No. 202028 against loan(LAP) raised from ICICI Bank vide Loan Account No. 016301003823). It is claimed that this cash was lying with the appellant for one month and was utilised for the deposit on 04/04/2009 into the bank account under consideration. The availability of the cash has not been demonstrated with the help of any cogent and convincing evidence. It is to be noted that this cash was withdrawn in the last financial year and therefore no attempt has been made to furnish the return of income filed for the relevant assessment year showing cash in hand available to the appellant as on*

31.03.2008. Further, as admitted that the cash was withdrawn from a bank account by raising loan against the property which is always for the specific purpose as disclosed while taking the loan. The appellant has failed to file any evidence as to why this loan was taken against the property and what purpose was disclosed to the bank. It need to be considered that this evidence has been furnished by the appellant in the form of additional evidence because he did not participate in the assessment proceedings, therefore it was incumbent upon appellant to disclose the facts surrounding this transaction. It is highly probable that the loan was taken for specific purpose/need and therefore any cash withdrawal would have been used for the same purpose. In absence of any specific evidence the aforesaid cash cannot be assumed to be available on 04/04/2008 for making deposit in the aforesaid bank account.

b) The availability of cash to the extent Rs. 28,95,000/- by sale of agriculture land of measuring 115 Kanal 16 Marla at Village Mehma Sawai (Distt Bathinda) for a consideration of Rs.57,90,000/- out of which the appellant has half share besides other half belonging to his mother Smt Satish Grover. The Assessing Officer rejected the contention of the appellant on the grounds that the sale deed of registration of this transaction was carried out on 04/04/2008 at 3:49 PM which is mentioned by the registration authority at the back of the sale deed. The bank in which the appellant is maintaining bank account is about 15 km away from the registrar office and the banks get closed by that time, therefore the cash received at the time of registration cannot be available with the appellant for deposit in the bank account. The Assessing Officer also drew attention to the endorsement where the registration authority has made a mention that the sale consideration in the form of cash/cheque/ Draft has been exchanged my presence. The appellant on the other hand states that this is a standard endorsement made at the time of registration in all cases. The appellant also drew my attention to the actual contents of the registration deed which makes a specific mention that the amount of Rs. 58,90,000/- in cash has been paid by the purchaser at home to the seller. The appellant states that in the body of sale deed it is specifically mentioned that the agreed amount has been exchanged at home, the Assessing Officer was not justified in drawing adverse inference merely based on the endorsement which is a standard

*endorsement placed by the registration authority at the back of each and every sale deed at the time of registration. The contention of the appellant is probable and acceptable because when the body of the sale deed specifically mentions that the cash has been paid at home, no adverse inference can be drawn merely by referring to the time of registration and standard endorsement made at the back of such documents at the time of registration. The availability of cash with the appellant to the extent of Rs. 28,95,000/- cannot be disputed.*

*In view of the discussion above the appellant has been successful in explaining the source of cash to the extent of Rs. 28,95,000/- out of the total cash deposit of Rs. 47,91,000/- in the above mentioned bank account considered by the AO. The balance amount of Rs. 18,96,000/- which has been intended to be explained based on the cash withdrawal out of loan account with ICICI bank is rejected and hence addition to that extent (Rs. 18,96,000/-) is sustained. The grounds of appeal are partly allowed.*

5. The assessee in his ground explain the details related to deposit of cash and requested for adjudication of balance addition of amount of Rs.18,96,000/-. The source of cash deposit was that the withdrawal of amount to Rs. 35,00,000/- through self cheque no. 202028 of ICICI Bank and sale of agricultural land measuring 115 Kanal 16 Marla at village Mehma Sawai Distt. Bathinda amount to Rs. 57,90,000/-, 50% share with mother of assessee. As the matter was too old so we are disposing the issue in presence of the Id. DR.

6. We heard the point of the revenue and considered the documents available in record. The assessee filed the details related to its cash source. The Id. CIT(A) rejected the withdraw of cash from ICICI Bank but no factual matrix was considered related his withdraw of cash and sale of property. Further, the cash flow

was also not considered by the revenue during the proceedings. The assessment was done u/s 144 of the Act. A reasonable opportunity should be given to the assessee for further consideration and submission of the documents. The impugned order is set aside and the matter is restored back to the Id. AO for de novo adjudication by considering the assessee's evidence for substantiate its case before the Id. AO. Further to mention that adequate opportunity of hearing shall be granted to the assessee during the hearing.

7. In the result, appeal of the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 10.05.2022**

**Sd/-**

**(Dr. M. L. Meena)**  
**Accountant Member**

**Sd/-**

**(ANIKESH BANERJEE)**  
**Judicial Member**

**AKV**

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy  
By Order