

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

I.T.A. No.174 of 2010
Date of decision: 22.7.2010

Subhash Verma.

-----Appellant.

Vs.

The Commissioner of Income Tax.

-----Respondent

**CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL**

Present:- Mr. Sanjay Bansal, Sr. Advocate with
Ms. Shaveta Malhotra, Advocate
for the appellant.

ADARSH KUMAR GOEL, J.

1. This appeal has been preferred by the Assessee under Section 260A of the Income Tax Act, 1961 (for short, "the Act") against order of the Income Tax Appellate Tribunal, New Delhi in Appeal No.I.T.(SS).A.No.555/Del. of 2003(Block Period: 1989-90 to 1998-99, proposing to raise following substantial questions of law:-

“(i) Whether the Tribunal misdirected itself in law as well as on facts in sustaining the addition of Rs.6 lakhs on account of household expenses, in the absence of any incriminating material having been found during

the course of search conducted at the premises of the appellant, that too contrary to the material on record?

- (ii) Whether the impugned order passed by the Tribunal sustaining the addition on account of household expenses in the absence of any material or information relatable to any evidence found as a result of search conducted on the assessee, contrary to the express provision of Section 158BB(1) of the Income Tax Act, 1961?
- (iii) Whether the Tribunal acted in illegally and perversely in upholding the order of CIT(A) whereby the latter had sustained the addition of Rs.1,25,000/- towards investment on account of purchase of property at Katra (J&K) by the appellant on behalf of his mother?"

2. The Assessee is a property dealer. On search of his premises, various documents were found depicting undisclosed income of the Assessee. During assessment for the block period in question, additions were made on account of estimated commission income besides properties of the assessee. On appeal to the Tribunal, the findings of the Assessing Officer to the extent of issues raised in this appeal were upheld. The Tribunal observed:-

“71. We have heard the rival contentions and perused the material available on record. We find general merit in the argument of learned counsel that

the household withdrawals of each year having been shown in the regular return; the adequacy thereof becomes subject matter of regular assessment and not block assessment. Besides, it has not been disputed that except above no other incriminating material in respect of undisclosed household withdrawals was found during the course of search. Coming to the aspect of the education expenses of the assessee's son, Shri Sanjay Verma on his engineering studies in Maharashtra, assessee did not give satisfactory reply. During the course of enquiry relating to search, assessee himself admitted that his son was undertaking engineering studies at Pune, therefore, this fact becomes part of the enquiries. Since this expenditure has not been shown and assessee does not give satisfactory reply, proper intervention is called for. In view of these facts, we find no infirmity in the order of CIT(A) reducing the addition to Rs.6 lacs. The issue of regular assessment in this case does not arise as the assessee has not shown any specific expenditure about the son's education in regular returns and the information was gathered by AO during the course of search on the facts revealed by the assessee himself. Therefore, the part retention of Rs.6 lacs cannot be the assessee himself. In view thereof, the order of CIT(A) is upheld.”

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“76. We see no infirmity in the order of CIT(A) inasmuch as the collection of offerings to deity as source of investment is on the basis of hearsay and oral contention, the addition being on the basis of seized document, the investment in the property at

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Katra in the name of assessee's mother has to be treated as undisclosed income.....”

3. We have heard learned counsel for the Assessee.

4. The finding concurrently recorded by the Assessing Officer and the Tribunal on the issue of additions made, in question, not being perverse, no substantial question of law arise.

The appeal is dismissed.

(ADARSH KUMAR GOEL)
JUDGE

July 22, 2010
ashwani

(AJAY KUMAR MITTAL)
JUDGE