

## **No Sec. 69A additions if copy of sale of land agreement produced by assessee wasn't rebutted by Dept.**

**Summary – The Chandigarh ITAT in a recent case of Jagdev Singh., (the Assessee) held that where in order to prove genuineness of sale transaction of agricultural land, assessee produced copy of sale agreement which was not rebutted by revenue authorities, impugned order passed by Commissioner (appeals) deleting addition under section 69A was justified and, thus, revenue's appeal against said order being frivolous, was to be dismissed**

### **Facts**

- During relevant year, assessee sold a piece of agricultural land. Since the assessee failed to submit any evidence in respect of said sale transaction, the Assessing Officer added amount of sale consideration to assessee's taxable income.
- In appellate proceedings, the assessee submitted fresh evidence in the form of copy of sale agreement of land. The Commissioner (Appeals) admitted fresh evidence and remanded matter back to Assessing Officer for disposal afresh.
- The Assessing Officer in the remand proceedings accepted fresh evidence submitted by assessee. Considering said fact, the Commissioner (Appeals) deleted the impugned addition.
- On revenue's appeal:

### **Held**

- As noticed from the extract of the remand report of the Assessing Officer, it is found that the Assessing Officer after having satisfied himself about the source of deposits as having been sourced from the advance received for sale of a specific agricultural land sold by the assessee, cannot thereafter have any grievance against the order passed. Consequently, the occasion to file an appeal against the consequential relief did not arise. It is noted that the evidence relied upon has not been rebutted. The assessee in the facts of the instant case, admittedly has pleaded that he only has agricultural income which has been accepted by the Assessing Officer.
- Considering the aforesaid facts and findings, there was no merit in the departmental appeal. Being satisfied by the reasoning and the finding arrived at in the facts which remain unrebutted on record, the appeal of the revenue is dismissed.
- Though the Tribunal has the powers to impose costs, however the exercise of the power is refrained from. However, it is hoped that the administration vigorously ensures that the officers are advised and instructed to exercise their discretion fairly and judiciously in not filing appeals frivolously. It is noted that the administrative checks and balances put in place by the department for ensuring that frivolous appeals are not filed, do not appear to be working. Care should have been taken to note that the issue had been given up in the remand proceedings by the Assessing Officer. In these

circumstances, without assailing the facts and evidences, appeal should not have been filed mechanically.

- It is seen that the present appeal has been filed with the approval of Principal Commissioner. It not only demonstrates that the approval has been given mechanically, it also erodes the trust reposed by the taxpayer in the fairness of the administration. Filing of such frivolous appeals reflects poorly on the departmental mindset and gives unwanted strength to the ever increasing cynical belief that the administrative set-up works mindlessly challenging any and every relief granted by an authority in accordance with law. Still more needs to be done to reign in the desire to show higher efficiency by concerned officials by filing a higher number of appeals.
- The mindless adherence to targets can cause irreparable havoc in the faith of the citizens in the administrative set-up which should be avoided and abhorred at all costs. A positive affirmative atmosphere may need to be created encouraging the concerned officials to bloom in a fearless atmosphere of trust and confidence in their functioning balanced with clear and unambiguous instructions that filing of frivolous appeals shall be viewed strictly and negatively. The message has to be clearly sent that filing of appeals mindlessly would be viewed and considered to be an act of inefficiency or dereliction of duty and not higher efficiency.
- Forcing the taxpayer to go through the trouble of engaging a lawyer and incurring unnecessary costs to defend a relief granted wherein the Assessing Officer has unambiguously accepted the evidence in the Remand Report gives rise in the public mind to seeds of State alienation. Such an act severally erodes the trust and implicit faith which the taxpayer generally reposes in the Assessing Officer to always act fairly and impartially in a democratic India. The tax administration works for the government of India and cannot be allowed to be viewed as an agent of an alien State which was the case of pre-Independence India.
- In the result, the appeal of the revenue is dismissed.