

## **Failure by tax department to prove understatement of sale consideration 69B additions deleted**

**Summary – The High Court of Punjab & Haryana in a recent case of Kulwinder Singh, (the Assessee) held that failure by the tax department to prove understatement of sale consideration would result in deletion of section 69B additions**

### **Facts**

- The respondent-assessee purchased a property for certain consideration as per the registered conveyance deed. During the search at residential premises of the accountant of company from whom assessee had purchased land, a photocopy document was recovered wherein the price of land was much higher. The AO concluded that the assessee had understated the investment in purchase of the land and made addition under section 69B on account of undisclosed investment in purchase of the land.
- On appeal, the Commissioner (Appeals) deleted the addition. The Tribunal upheld the order of the Commissioner (Appeals).
- On appeal to the High Court:

### **Held**

- The HC held that the agreement seized from accountant was only a photo copy of the original which was not seized from the assessee. The seller, buyer and the witnesses refused to identify the same. The assessee was neither a party nor witness to the agreement. The assessee was not related to either party. The assessee purchased the land directly from seller at the prevalent circle rate. The land purchased by the assessee was different from that mentioned in the agreement seized. The burden was on the department to prove understatement of sale consideration which was not discharged. Thus, the presumption of the Assessing Officer could not lead to a conclusion of under investment by the assessee, liable for addition.
- In view of the above facts proved on record, the Tribunal rightly upheld the findings recorded by the Commissioner (Appeals).