

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
DIVISION BENCH, "A" CHANDIGARH**

**BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND  
SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA No.755/CHD/2022

निर्धारण वर्ष / Assessment Year : 2018-19

Shri Jaspreet Singh Mauj, 10-1, Sarabha Nagar, Ludhiana.	बनाम	The DCIT/ACIT, CC-1, Ludhiana.
स्थायी लेखा सं./PAN NO: ALGPM6469C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Y.K.Sud, CA

राजस्व की ओर से/ Revenue by : Smt. Amanpreet Kaur, Sr. DR

सुनवाई की तारीख/Date of Hearing : 18.07.2023

उद्घोषणा की तारीख/Date of Pronouncement : 21.07.2023

**आदेश/ORDER**

**Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 04.11.2022 of the Commissioner of Income Tax (Appeals)-5, Ludhiana [in short 'CIT(A)'] pertaining to 2018-19 assessment year.

2. The assessee in this appeal has raised the following grounds of appeal:

1. *That the Worthy Commissioner of Income Tax(Appeals) - V, has erred in upholding the contention of the Assessing Officer by treating the*

*Surrendered Business Income of Rs.3 0,00,000 under the head Building as Deemed Income u/s 69 of the Income Tax Act, 1961.*

2. *That the Worthy Commissioner of Income Tax (Appeals) - V, has erred in upholding the contention of Assessing Officer by<sup>1</sup> not allowing depreciation claim on the said Building.*

3. *That the Worthy Commissioner of Income Tax (Appeals) - V, has erred in upholding an addition of Rs.2,11,600 on account of addition in the value of Building based on the valuation report of the Department valuer.*

4. *That the Worthy Commissioner of Income Tax (Appeals) - V, has erred in upholding the action of the Assessing Officer by treating the Business Income surrendered Rs.30,00,000 chargeable to tax under Section 115BBE @60 percent instead of Normal Tax Rate.*

5. *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.*

3. The brief facts of the case are that the assessee is a Veterinary Doctor and has been returning his income from profession. A survey action was carried out at the premises of the assessee but neither incriminating documents nor any cash etc. was found during the survey action. However, the Survey Party enquired from the assessee about the expenditure incurred on the building. In response, the assessee surrendered an amount of Rs.30 lacs to cover the building expenses and other unaccounted income.

4. During the assessment proceedings, the Assessing Officer ( in short 'the AO ') treated the aforesaid surrendered amount of Rs. 30 lacs as unexplained income of the assessee and assessed the same u/s 69 of the Income Tax Act, 1961 (in short 'the Act'). Further, the AO invoked the provisions of Section 115BBE of the

Act and taxed the said income @ 60%. The AO also separately added an amount of Rs.2,11,600/- on account of addition in the value of building.

5. The Id. CIT(A) confirmed the addition so made by the AO.

6. Before us, the Id. Counsel for the assessee has submitted that the assessee did not have any other income, except from the practice of profession as a Veterinary Doctor. He has further relied upon the surrender letter dated 05.10.2017, the contents of which are reproduced as under :

To

*The Additional Commissioner of Income Tax,  
Range-6, Ludhiana.*

*Sub : Survey at the premises of Dr. Jaspreet Singh (under Section. 133A).*

*Dear Sir,*

*It is submitted that I am veterinary Doctor doing private practice. My premises at Sarabha Nagar and Passi Chowk, Sua Road were surveyed by Income Tax deptt. On 4/10/2017.*

*I am a good Doctor but I am bad in maintenance of records and books of account. I receive my fees and sale proceeds in cash.*

*The possibility of these business/professional receipts remaining untaxed cannot be ruled out. The building at passsi chowk, sua road, has been build from business/professional receipts only as I have no other source of income. There is non-maintenance/improper maintenance of books/records.*

*I am law abiding & peace loving citizen and do not want to enter into litigation with the deptt. And wish to cover all kind of discrepancies. I now surrender under the head business and profession a sum of Rs. Thirty Lakhs (30,00,000) to cover building and other discrepancies.*

*I shall deposit Income tax @ Rs.30% + Surcharge on this surrendered amount ( i.e. Rs.9,27,000/-). I shall include this income in my current year in addition to my normal professional/business income.*

*This surrender is being made voluntarily without any coercion and subject to no penalty under the Income Tax Act.*

*Please accept this surrender.*

*Thanking you,*

*Sd/-*

*Yours faithfully  
(Dr. Jaspreet Singh)  
Vets for Pets 10-1  
Sarabha Nagar, Ludhiana.”*

7. The ld. Counsel for the assessee has submitted that a perusal of the aforesaid surrender letter would reveal that firstly there was neither any cash nor any incriminating material was found during the survey action. However, a surrender was obtained by the department stating therein that there might be professional receipts which might not be included in the income returned by the assessee and therefore, to cover up the expenditure incurred on the building and other professional income, the assessee surrendered Rs.30 lacs as his undisclosed professional income. The assessee also paid due taxes, thereupon @ 30% + surcharge etc. There is nothing on record that the assessee had received any other unexplained income. The aforesaid surrender has been made just on estimation basis that the assessee might have received from professional receipts which might not have been accounted for. The Central Board of Direct Taxes has also issued instructions that the Income Tax Authorities at the time of survey/search action should not harp

upon taking surrender/confession statements, rather they should collect the evidences relevant to unaccounted/unexplained income and that the additions should not be based merely on by obtaining surrender statements. However, in this case, the surrender statement has been obtained and there is no evidence nor any allegation of the Survey Party that the assessee had income from any other source. In fact, no such income has been found during the survey action. However, the assessee to keep his promise, has offered for taxation the surrendered additional professional income of Rs.30 lacs. Under the circumstances, the action of the AO in assessing the aforesaid surrendered income as income from unexplained sources u/s 69 of the Act cannot be held to be justified. Therefore, the said surrendered income has been rightly offered by the assessee his business/professional income.

8. In view of the above discussion, the invocation of Section 115BBE of the Act is also held not applicable in this case. Further, the addition made by the AO of Rs.2,11,600/- on account of addition in the value of building cannot also be held to be justified as the assessee in clear terms has surrendered the additional professional income covering the expenditure incurred on building also. In view of this, the addition made by the AO

cannot be held to be justified and the same is, accordingly, set aside.

9. In the result, appeal of the assessee is treated as allowed.

Order pronounced in the Open Court on 21<sup>st</sup> July, 2023.

**Sd/-**  
**( VIKRAM SINGH YADAV)**  
**लेखा सदस्य/ Accountant Member**

**Sd/-**  
**( SANJAY GARG)**  
**न्यायिक सदस्य/ Judicial Member**

Poonam.

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,  
सहायकपंजीकार/ Assistant Registrar