

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

BEFORE SHRI RAJPAL YADAV, VICE PRESIDENT AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 92/CHD/2025

निर्धारण वर्ष / Assessment Year: 2023-24

Shri Amardeep Sandhu, Jagjit Singh Anil Batra, SCO 45, 2 nd Floor, Sector 41D, Chandigarh.	Vs	The ITO, Chandigarh.
स्थायी लेखा सं./PAN NO: CHEPS4310N		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

Assessee by : Shri Anil Batra, Advocate

Revenue by : Shri Vivek Vardhan, Addl. Id. CIT Sr.DR

Date of Hearing : 29.07.2025

Date of Pronouncement : 01.09.2025

PHYSICAL HEARING

ORDER

PER RAJ PAL YADAV, VP

The assessee is in appeal before the Tribunal against the order of the Id. Commissioner of Income Tax (Appeals) [in short 'the CIT (A)'] dated 09.01.2025 passed for assessment year 2023-24.

2. Though the assessee has taken five grounds of appeal but his grievance revolves around a single issue, namely, Revenue

Authorities have erred in not allowing the refund of Rs.37,88,470/-.

3. The brief facts as reproduced in the order of Id. CIT (Appeals) read as under :

Statement of Facts
Amardeep Sandhu

PAN : CHEPS4310N
A. Y 2023-24

Para 1. That the assessee is a Canadian non-resident and for the year under consideration he had sold property i.e House No 1602, Sector 36 D, Chandigarh for a consideration of Rs. 4,65,00,000/- on which Rs. 1,20,90,000/- tax was deducted at source @26%.

Para 2. Accordingly Income Tax Return was filed vide Acknowledgment no 559929440191223 dated 19-12-2023 declaring net taxable income inclusive of Long Term capital gain at Rs. 3,71,29,847/- and sought of refund of Rs. 37,88,470/-

Para 3. However, the assessee received intimation U/s 143(1) dated 19-01-2024 vide DIN: CPC/2324/A2/414010942 raising a demand of Rs. 29,94,960/-vide Demand Ref. No. 202320233724503863T. The demand has been raised by reducing the credit of TDS of Rs. 1,26,20,185/- to Rs. 63,26,743/- on presumption, by invoking Rule 37B A(2)(i) as through part of income is assessable the hands of some other person. No such clue emanates either from the income tax return fled by the assessee, or in F. No 26AS (Annual Tax Statement) which report the correct income ad TDS on the sale property at Rs. 4,65,00,000/- and Rs. 1,20,90,000/- being 26% of the Gross sale consideration U/s 195/197 of the Income Tax Act, 1961 as the assessee (deductee) was a Non Resident in India.

Para 4. However there is misleading reporting in the TIS showing having the same property to have been sold twine by different persons i.e The transactions has been reported as under the title

<i>Sr. No</i>	<i>General Information category</i>	<i>The transactions items 5 is correct</i>
<i>4</i>	<i>Sale of land or building</i>	<i>Rs. 9,30,00,000/-</i>
<i>5</i>	<i>Receipts from transfer of immovable property</i>	<i>Rs. 4,65,00.000/-</i>

4. With the assistance of ld. Representative, we have gone through the record carefully. On a perusal of the impugned order passed by the CPC, Bangalore u/s 143(1) as well as the order of the CIT (Appeals), we find that there is no coherence between their conclusion vis-à-vis actual facts available on the record. The finding of the CIT (Appeals) is worthy to note in this connection which reads as under :

“Decision :

Here the main issue relates with short grant of TDS credit. In this regard, the assessee submitted its reply but not found acceptable because TDS share belongs to some person named Mehtab kaur. Moreover, the assessee also failed to submit the copy of Bank account for F.Y.2022-23. Accordingly, appeal of the assessee is dismissed.”

5 This finding is totally vague. It is neither here nor there. It does not disclose as to why explanation of the assessee is not acceptable, as to how some other name crept-in in the TDS shares. The CIT (Appeals) was expected to call for complete record and thereafter adjudicate the issue specifically. After looking into the facts and the details submitted before us, we are of the view that it is unnecessary disallowance by the CPC Bangalore and unnecessarily confirmed by the CIT (Appeals). Therefore, we allow the appeal of the assessee and direct the

Revenue to issue refund of Rs.37,88,470/- within one month from receipt of this order.

6. In the result, appeal of the assessee is allowed.

Order pronounced on 01.09.2025.

Sd/-

(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Sd/-

(RAJPAL YADAV)
VICE PRESIDENT

“Poonam”

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

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

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar