

## Commissioner of Income Tax Vs Balbir Singh

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** July 2, 2007

**Acts Referred:** Income Tax Act, 1961 " Section 260A, 271

**Citation:** (2008) 214 CTR 147 : (2008) 304 ITR 125

**Hon'ble Judges:** S.D. Anand, J; M.M. Kumar, J

**Bench:** Division Bench

**Final Decision:** Dismissed

### Judgement

M.M. Kumar, J.

The Revenue has approached this Court by filing the instant appeal u/s 260A of the IT Act, 1961 (for brevity, the Act"),

and has challenged order dt. 31st Oct., 2006 passed by the Income Tax Appellate Tribunal, Chandigarh Bench A (for brevity, the Tribunal"), in

ITA No. 649/Chandi/2005. The Tribunal has recorded a categorical finding that the gift amount claimed by the assessee came to him through

banking channel from one Shri Harcharan Singh, Post Box No. 24810, Dubai (UAE). The amount was credited to the assessee from the NRE

Account No. 67, maintained by the aforementioned Shri Harcharan Singh with the State Bank of Patiala, Kurali. It has further been found that the

assessee has also produced gift deed and showed the impugned amount in its return. The Tribunal has further recorded a categorical finding that

the Revenue has not furnished any evidence to prove that the assessee had either concealed any income or furnished inaccurate particulars nor it is

a case of the Revenue that the assessee has consciously and intentionally defied the law. It is on the basis of the aforementioned findings that the

Tribunal has taken the view that no question of levy of penalty u/s 271(1)(c) of the Act would arise.

2. It is admitted position that the assessee had claimed that a sum of Rs. 1,00,000 was received from the NRE Account No. 67, maintained with

the State Bank of Patiala, Kurali, by one Harcharan Singh. The: aforementioned claim of the assessee was declined and further proceedings for

imposition of penalty u/s 271(1)(c) of the Act were initiated on the ground that the assessee has furnished inaccurate particulars of income or

concealed the correct particulars of his income. However, the Tribunal has found as a fact that requirements of Section 271(1)(c) of the Act were

not satisfied because the impugned amount claimed to be a gift had come through a banking channel and from an identifiable source, i.e., NRE

Account No. 67, maintained with State Bank of Patiala, Kurali. Therefore, the Tribunal relying upon the judgments of Hon<sup>ble</sup> the Supreme Court

in the cases of Hindustan Steel Ltd. Vs. State of Orissa, and K.C. Builders and Another Vs. The Assistant Commissioner of Income Tax, and a

number of other judgments of various High Courts, came to the conclusion that once the particulars of income have been duly declared, then it

cannot be concluded that the assessee has concealed the particulars or has furnished inaccurate particulars of his income. It has also been held that

mere observation of the AO without recording any satisfaction concerning concealment of income was not sufficient for initiation of proceedings u/s

271(1)(c) of the Act. On that additional ground also, the Tribunal has found that no case for imposition of penalty u/s 271(l)(c) of the Act is made

out.

3. After hearing the learned counsel, we are of the considered view that no question of law, much less a substantive question of law, warranting

admission of the appeal would arise. There are findings of fact recorded by the Tribunal showing that the assessee has disclosed all detailed

particulars about his income which he has received albeit claiming the same to be gift. The case does not fall within the mischief of Section 271(1)

(c) and it cannot be concluded that the assessee has furnished incorrect particulars. Even otherwise, no evidence with regard to concealment has

been placed on record by the Revenue to take a view in its favour. On the contrary, the income has been received by the assessee through banking

channel and identity of the donor is also established. It is a different matter that the same has not been considered as gift.

4. Therefore, we do not find any ground to interfere in the view taken by the Tribunal. The appeal is wholly without merit. Dismissed.