

**APPELLATE TRIBUNAL INLAND REVENUE LAHORE BENCH,
LAHORE**

ITA No. 1881/LB/13
(Tax Year 2010)

M/s Zain Traders, Pakpattan. .. Appellant
Versus
CIR, RTO, Multan. .. Respondent

Appellant by: Mr. Mumtaz Hussain Khokhar, Adv.
Respondent by: Ms. Fouzia Adil, DR.

Date of hearing: 07.04.2015 Date of order: 07.04.2015

ORDER

CH. ANWAAR UL HAQ (Judicial Member): The titled appeal pertaining to tax year 2010, has been preferred at the instance of taxpayer, arises out of impugned order dated 13.06.2012, passed by the learned CIR (A), Multan.

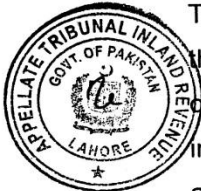
2. Briefly stated, the relevant facts are that the taxpayer in this case is an individual filed return for the tax year 2010 declaring income at Rs.20,000/- which was deemed to be treatment as an assessment stood finalized in terms of section 120 of the Income Tax Ordinance, 2001. Proceedings in the case were initiated on the basis of information received by the department that the taxpayer had invested an amount of Rs. 22,00,000/- for purchase of immovable property. Assessment for the year was amended u/s 122 (1)/ (5) and an addition of Rs.22,00,000/- was made u/s 111(1)(b) of the Income Tax Ordinance, 2001. The taxpayer assailed the amendment of assessment and subsequent addition u/s 111 (1) (b) before the learned CIR (A) who vide order dated 13.06.2012, upheld the action of the assessing authority.

3 The learned AR on behalf of taxpayer submitted before us that the learned CIR (A) was not justified to uphold the addition made u/s 111 (1) (b) amounting to Rs. 22,00,000/- and contended



that the taxpayer has sufficient sources to make investment in purchase of immovable property. It is contended by the learned AR that the requisite documentation were duly submitted before the authorities below but the same were unjustifiably discarded. It is asserted by the learned AR that the authorities below were not justified to discard the sources of investment acquired through agricultural income. It is contended by the AR that the impugned addition u/s 111 (1) (b) was made unjustifiably and illegally and liable to be deleted. On the contrary, the learned DR supported the orders passed by the authorities below and submitted that the taxpayer has failed to explain the sources out of which he had made investment in purchase of immovable property, therefore, the impugned addition has rightly been made towards income of the taxpayer for tax year 2010.

4 We have looked into the matter and after due consideration, we find that in terms of sub-section (1) of section 111 of the Income Tax Ordinance, 2001, where a person made any investment or is the owner of any money or valuable article and the person did not offer any explanation about the nature and source of amount invested for acquisition of such assets, the said investment / amount shall be included as income of the person under the head 'income from other sources' to that extent it is not adequately / satisfactorily explained. It provides that amount referred shall be included in the person's income chargeable in the year to which said amount relates. The perusal of the wealth statement of the taxpayer reveals that it had opening balance as on 30.06.2009 at Rs.2,768,266/- and closing balance as on 30.06.2010 at Rs.3,250,000/-, therefore, there is an accretion of only Rs.481,734/- in the wealth of the taxpayer under consideration. The said accretion was mostly due to agricultural income declared at Rs.510,000/-. Accordingly, the assessing officer could add to the extent of said amount credited in the wealth of the taxpayer as unexplained investment in the year under consideration.



5. On the other hand, the learned DR was of the view that the appellant also declared agricultural income in the previous years as under: -

<u>Tax Year</u>	<u>Agri Income</u>
2007	790,000
2008	600,000
2009	510,000

The learned DR further contended that the taxpayer had purchased the property during the year out of that agricultural income which is in the opinion of the learned DR is an afterthought as the appellant has failed to prove that he was actually earning agricultural income from taking land on lease. He further submitted that mere filing of affidavits of alleged owners of the land regarding lease of their agricultural land to the taxpayer is an afterthought.



6. In our view, the only credible document is "Khasra Gardawari" maintained by the Revenue Department to establish that who is actually cultivating the land as "Mustajir / Muzara". Admittedly in the Revenue record, the appellant taxpayer has not been registered as "Mustajir / Muzara".

7. Since during the year the un-explained credit amount is only Rs.5,10,000/- declared as agricultural income and rest of the amount invested for the purchase of property was utilized out of the opening balance of Rs.2,768,266/- appearing in the wealth statement as on 30-06-2009. Accordingly, we restrict the addition of Rs.22,00,000/- to the extent of Rs.510,000/- only. Orders of the authorities below are accordingly modified to that extent.

8. Appeal disposed of in the above manner.


(MOHAMMAD RAZA BAQIR)
Accountant Member


(CH. ANWAAR UL HAQ)
Judicial Member

Copy of the bench order forwarded to

1. The Appellant *M/S Zain Traders Pakpattan*

2. THE CIR, *LA*

Zahid Ali By order
Assistant Registrar 30-11-15

Appellate Tribunal Inland Revenue
Lahore.