Commissioner of Income Tax, Faridabad v. R.S. Aggarwal, proprietor Agro Engineering Works

ITA 267/2006

ITA 267/2006 | 2007-01-19

Adverse donor statement required opportunity for cross-examination

143(3) | 147 | 148 | 263

High Court of Punjab and Haryana | Chandigarh | Vijender Jain | Rajive Bhalla

Assessment years:

01 FACTS OF THE CASE

After an initial reopening concerning a Rs.5 lakh NRE-account gift, revision under section 263 led to a fresh assessment. The officer relied on the donor's statement to enforcement authorities that gifts were bogus and carried 12% consideration. He added Rs.5.60 lakh after refusing the assessee's request to summon and cross-examine the donor. The first appellate authority deleted the addition and the Tribunal upheld that relief.

Source: PDF pp.1–3

02 DISCUSSION BY THE HON'BLE COURT

Revenue disputed whether the revision order expressly directed examination of the donor. The Court held that dispute immaterial: the adverse statement was used against the assessee, who had to receive an opportunity to confront its author. The refusal violated natural justice. No substantial question of law arose.

Source: PDF pp.3–4

03 JUDICIAL DECISION

Revenue's appeal was dismissed. Deletion of the Rs.5.60 lakh addition remained intact; the High Court did not order a fresh remand.

Source: PDF p.4

04 OUTCOME / IN WHOSE FAVOUR

Assessee-favourable dismissal based on denial of an opportunity to confront the donor. Source date discrepancy: the first-page heading says 19 January 2006, while the signed conclusion says 19 January 2007. This record uses the signed conclusion's date and preserves that conflict.

Source: PDF pp.1,4

05 EXPERT COMMENTS

Distinguish the gift from the addition based on the statement — The original gift was Rs.5 lakh; Rs.5.60 lakh reflected the alleged additional 12% consideration. The Court examined the evidentiary use of the donor's statement, not a general exemption for NRE gifts. Reporting the two amounts separately avoids turning this procedural defect into a finding that any such remittance is necessarily genuine.

The requested confrontation was central to this record — The assessee expressly sought attendance of the donor, but the officer relied on his enforcement statement without providing that opportunity. The Court held that the incriminating statement could be read against the assessee after an opportunity to confront its author. The reasoning is tied to material adverse evidence and the denied request, rather than a declaration that statements before another authority are inherently unusable.

The revision-order dispute did not displace the fairness requirement — Revenue's argument focused on whether section 263 directions had required examination. The Court treated that wording dispute as irrelevant because the manner of relying on the statement independently offended natural justice. The reported relief is dismissal of Revenue's appeal and preservation of deletion, not an implied remand or a fresh judicial determination of the donor's financial capacity.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

Punjab and Haryana High Court order; verified source copy

Complete source PDF reviewed: 5 physical pages.

All 5 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Sections and disposition are recorded only to the extent stated in this source order.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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