Commissioner of Income-tax, Jalandhar v. Kulwant Industries

ITR 104/1998

No neutral citation stated in source | 2007-07-26

Deletion of partner-capital credit upheld on accepted evidence of a genuine gift from the partner's maternal uncle.

256(1)

High Court of Punjab and Haryana | Division Bench | M.M. Kumar | Ajay Kumar Mittal

Assessment years: 1989-90

01 FACTS OF THE CASE

For assessment year 1989-90, the four-partner oil-engine-parts firm faced a Rs.25,000 addition to the capital account of its 15% partner, Jaswinder Singh, claimed as an NRI gift. CIT(A) deleted that addition and the Tribunal upheld deletion. Revenue obtained a reference asking whether the credit belonged in the firm's or the partner's case. The respondent did not appear despite service.

Source: PDF p.1

02 DISCUSSION BY THE HON'BLE COURT

The Court treated the Tribunal's findings as unassailable: the donor was the partner's maternal uncle, identified and holding a genuine NRE account, and the gift passed by cheque. It considered R.S. Gupta on available funds for a valid gift and Sonia Bhatia on voluntary transfer without consideration and acceptance. On the accepted facts all gift ingredients were satisfied; Revenue's challenge was factual.

Source: PDF p.3

03 JUDICIAL DECISION

The referred question was answered against Revenue and in favour of the assessee.

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04 OUTCOME / IN WHOSE FAVOUR

The Rs.25,000 deletion in the firm's assessment survived on the established genuine-gift findings. The judgment did not order an addition in the partner's assessment or create a blanket exemption for every partner-capital credit.

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05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

The answer rests on source evidence, not merely the account heading — Although the reference was framed around firm versus partner, the Court resolved it through the donor's identity, relationship, genuine account and cheque transfer. A capital-account label by itself was not the reasoning. Comparable reliance needs evidence establishing the source and reality of the contribution, rather than an assumption that partner credits can never be examined in the firm.

The gift discussion requires available property and genuine transfer — R.S. Gupta was cited to explain that book entries alone may fail where funds or permitted facilities are absent; Sonia Bhatia supplied voluntariness and absence of consideration. These principles prevent reducing this decision to a rule that a cheque proves every gift. The Court accepted the full factual foundation in this particular transaction.

Use the Court's findings while preserving the quotation anomaly — The reproduced Tribunal text refers to no direct relationship, yet the High Court expressly and repeatedly says maternal uncle. That inconsistency should remain visible. Likewise, its NRE-account observations are part of the historical reasoning, not a current banking-law assurance or a substitute for investigating the facts of a different remittance.

Source: PDF p.1

SOURCE & VERIFICATION

20070726_PHHC010378871998.pdf

Complete source PDF reviewed: 6 physical pages.

All 6 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All six original pages read and visually inspected. The quoted Tribunal passage mentions absence of relationship, while the High Court repeatedly identifies the donor as the real maternal uncle. The note follows the High Court's express findings and discloses the inconsistent quotation.

STATUTORY SCOPE

Section 256(1) reference concerning an unexplained-credit addition; source does not expressly number section 68.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been 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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