

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**(DELHI BENCH 'G' : NEW DELHI)**

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 6158/Del/2013  
Assessment Year: 2008-09

SURAJ MANDAL,  
B-26, SHALIMAR APARTMENT,  
MASJID MOTH,  
NEW DELHI  
(PAN: BMZPM1527L)

VS. ACIT, CENTRAL CIRCLE-7,  
NEW DELHI

**(APPELLANT)**

**(RESPONDENT)**

Assessee by : Sh. Ashok Sekhri, Adv.  
Revenue by : Sh. Kaushlendra Tiwari, Sr. DR

**ORDER**

**PER H.S. SIDHU, JM**

This appeal has been filed by the Assessee against the Order dated 11.9.2013 of the Ld. Commissioner of Income Tax (Appeals)-VI, New Delhi relevant to assessment year 2008-09.

2. The grounds raised in the appeal read as under:-

1. On the facts and the circumstances of the case as well as in law, the Ld. CIT(A)- VI has erred in partly disallowing the Appeal of the Appellant.
2. On the facts and in the circumstances of the case the Ld. CIT(A)-VI has erred in not considering the reasons and contentions mentioned in the Grounds of Appeal and subsequent Written submissions filed before him by not appreciating the fact that the Appellant being an Ex-MP and Ex-MLA, most of his household expenses are free since he is eligible for the same.
3. On the facts and in the circumstances of the case the Ld. CIT(A)-VI has erred in not considering the fact that most of the time the Appellant resides at his native place, i.e., a small village in the State of Jharkhand in his

owned building where his household expenses are minimum.

4. On the facts and in the circumstances of the case the Ld. CIT(A)-VI has erred in not appreciating the fact while passing the order that the Appellant has only one dependant member, i.e., wife in his family and hence the entire expenses are not more than Rs. 1,44,000/- as has been declared in his balance sheet.

5. On the facts and in the circumstances of the case the Ld. CIT(A)-VI has erred in holding that agricultural land or agricultural income have not been reflected in the computation part of return of income of the Appellant for the Assessment year 2008-09 for the reason that the computation part of return of income does not provide for any column where such land can be disclosed and moreover it is submitted that in the relevant assessment year, the appellant did not earn any agricultural income and hence the same was shown as NIL in the computation part of return of income of the captioned assessment year. It is further submitted that agricultural and has been duly reflected in the Balance Sheet as at 31.03.2008.

6. On the facts and in the circumstances of the case the Ld. CIT(A)-VI has erred in holding that the drawings of Rs. 1,44,000/- shown by the Appellant in his Balance Sheet as at 31.03.2008 is not reflected in any of the Bank statements and the Ld. CIT(A) has not considered the fact that the Appellant had adequate cash in hand of Rs. 3,87,000/- to meet his personal expenses. Even after meeting his personal expenses he has been left with cash of Rs. 3.87 lakhs in his hand during the relevant period.

7. On the facts and in the circumstances of the case the Ld. CIT(A)- VI has erred in holding that Rs. 1,44,000/- is a meager sum considering the status of the appellant but has ignored the fact that by virtue of the status of the Appellant most of his expenses are either free since he is eligible for such privileges and benefits as an Ex MP and Ex MLA or are reimbursed for the same reason. Hence the drawings incurred by him are adequate and the same have been duly shown in the Balance Sheet.

8. That the Appellant craves the leave of the Hon'ble Tribunal to add, alter or amend any of the grounds of appeal at the time of hearing."

3. The brief facts of the case are that in this case Notice u/s. 142(1) of the Income Tax Act, 1961 (hereinafter referred as the Act) was issued to the assessee on 28.10.2009 as the assessee had not furnished his return of income. The return of income was filed on 5.3.2010 declaring total income of Rs. 2,30,024/-. The case was selected for scrutiny and accordingly, notice u/s. 143(2) was issued on 19.7.2010. Detailed questionnaire alongwith notice u/s. 142(1) of the Act was issued on 19.10.2010 fixing the date of compliance on 28.10.2010. In compliance to the notice, the Counsel of the assessee attended the hearing on 12.11.2010. However, no reply to the questionnaire dated 19.10.2010 was furnished by the assessee. He was required to furnish reply to the questionnaire on 22.11.2010. He was also asked categorically to furnish details of house hold expenses and was required to show cause as to why his house hold expenses should not be taken at Rs. 60,000/- per month as there was no withdrawal from his bank account for this purpose. No reply to the questionnaire has been filed by the assessee. AO observed that as the assessee has not furnished any reply to the questionnaire, the assessment was completed on the basis of material available on record. The house hold expenses of the assessee are taken at Rs. 7,20,000/- for the FY 2007-08 @ Rs. 60,000/- per month. This amount was added to the income of the assessee as undisclosed expenses on house hold and accordingly, the income of the assessee was assessed at Rs. 9,50,020/- vide order dated 02.12.2010 passed

u/s. 143(3) of the Act. Against the assessment order dated 02.12.2010, the assessee appealed before the Ld. CIT(A), who vide his impugned order dated 11.9.2013 has partly allowed the appeal of the assessee. Aggrieved with the impugned order the assessee is in appeal before us.

4. During the hearing, Ld. A.R. of the assessee, has stated that the assessee being an Ex-MP and Ex-MLA and most of his household expenses are free since he is eligible for the same, which reduced the expenditure of the assessee. He further stated that most of the time the Assessee resides at his native place, i.e., a small village in the State of Jharkhand in his owned building where his household expenses are minimum. It was further stated that assessee has only one dependant member, i.e., wife in his family and hence the entire expenses are not more than Rs. 1,44,000/- as has been declared in his balance sheet. It was further submitted that the agricultural land or agricultural income have not been reflected in the computation part of return of income of the Assessee for the Assessment year 2008-09 for the reason that the computation part of return of income does not provide for any column where such land can be disclosed and moreover it is submitted that in the relevant assessment year, the assessee did not earn any agricultural income and hence the same was shown as NIL in the computation part of return of income of the captioned assessment year. It was further submitted that agricultural land has been duly reflected in the Balance Sheet as on

31.03.2008. It was further stated that drawings of Rs. 1,44,000/- shown by the Assessee in his Balance Sheet as on 31.03.2008 is not reflected in any of the Bank statements and Ld. CIT(A) has not considered the fact that the Assessee had adequate cash in hand of Rs. 3,87,000/- to meet his personal expenses. Even after meeting his personal expenses he has been left with cash of Rs. 3.87 lakhs in his hand during the relevant period. In view of the above, he stated that Rs. 1,44,000/- is a meager sum considering the status of the assessee but has ignored the fact that by virtue of the status of the Assessee most of his expenses are either free since he is eligible for such privileges and benefits as an Ex MP and Ex MLA or are reimbursed for the same reason. Hence the drawings incurred by him are adequate and the same have been duly shown in the Balance Sheet. It was the further contention that no contrary evidence has been brought on record by the revenue to the averments made by the assessee to support his plea. In view of the above, he requested that the addition in dispute may be deleted.

5. On the contrary, Ld. DR opposed the request of the Ld. Counsel of the assessee and relied upon the orders of the authorities below.

6. We have heard both the parties and perused the records, especially the orders of the authorities below. We note that assessee being an Ex-MP and Ex-MLA and most of his household expenses are free since he is eligible for the same, which reduced the expenditure

of the assessee. We further find considerable cogency in the submissions of the Id. Counsel of the assessee that most of the time the Assessee resides at his native place, i.e., a small village in the State of Jharkhand in his owned building where his household expenses are minimum. We further note that assessee has only one dependant member, i.e., wife in his family and hence the entire expenses are not more than Rs. 1,44,000/- as has been declared in his balance sheet. It is an admitted fact that the agricultural land or agricultural income have not been reflected in the computation part of return of income of the Assessee for the Assessment year 2008-09 for the reason that the computation part of return of income does not provide for any column where such land can be disclosed and moreover the relevant assessment year, the assessee did not earn any agricultural income and hence the same was shown as NIL in the computation part of return of income of the captioned assessment year. We further note that the agricultural land has been duly reflected in the Balance Sheet as on 31.03.2008 and drawings of Rs. 1,44,000/- shown by the Assessee in his Balance Sheet as on 31.03.2008 is not reflected in any of the Bank statements and Ld. CIT(A) has not considered the fact that the Assessee had adequate cash in hand of Rs. 3,87,000/- to meet his personal expenses. Even after meeting his personal expenses he has been left with cash of Rs. 3.87 lakhs in his hand during the relevant period. Keeping in view of the facts and circumstances of the case, we are of the

considered view that Rs. 1,44,000/- is a meager sum considering the status of the assessee but it was ignored by the lower authorities that by virtue of the status of the Assessee most of his expenses are either free since he is eligible for such privileges and benefits as an Ex MP and Ex MLA or are reimbursed for the same reason. Hence the drawings incurred by him are adequate and the same have been duly shown in the Balance Sheet. We further find that no contrary evidence has been brought on record by the revenue to the averments made by the assessee. In view of the above, the addition in dispute is deleted and ground raised by the Assessee is allowed.

7. In the result, the Assessee's appeal is allowed

Order pronounced in Open Court on this 04-10-2017.

**Sd/-**

**(PRASHANT MAHARISHI)  
ACCOUNTANT MEMBER**

**Sd/-**

**(H.S. SIDHU)  
JUDICIAL MEMBER**

**Dated : 04-10-2017**

SR BHATANGAR

**Copy forwarded to:**

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.