

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI**

BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER

ITA No. :-5391/Del/2018
Assessment Year: 2010-11

Zile Singh, C/o 10-Jawahar Puri, Kanker Khera, Meerut Uttar Pradesh Pin 250001	vs.	ITO, Ward-69 (1) New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri Bhupinder Singh, Adv.
Department by :	Shri S.L. Anuragi, Sr. DR
Date of Hearing	29/01/2019
Date of pronouncement	22/04/2019

ORDER

The aforesaid appeal has been filed by the assessee against impugned order dated 3.5.2018, passed by Ld. CIT (Appeals) Meerut for the quantum of assessment passed u/s 144/148 for the Asstt. Year 2010-11. In the grounds of appeal assessee has mainly challenged the addition of Rs. 5,37,000/- made by the AO on account of cash deposit in the bank account.

2. The facts in brief are that, an information was received to the AO through AIR that assessee has deposited sum of Rs. 30,80,000/- in cash in State Bank of India Saving bank account No. 11692776244 in

the relevant assessment year. Accordingly, proceedings for assessment was initiated u/s 148 to examine the source of cash deposits. Before the AO assessee's explanation was that the source of these cash deposits was, firstly out of cash withdrawals made from the same bank account; and secondly, out of sale of agricultural land. AO accepted the explanation for most of the cash deposits and has given credit; i) out of withdrawal from bank account of Rs. 17,05,000/- drawn between 2.4.2009 to 4.6.2009; ii) Rs. 1,30,000/- withdrawn during the period 5.6.2009 to 29.6.2009; and iii) further he has given credit for assessee's share in sale of property during the year under consideration of Rs. 2,27,500/- (being $\frac{1}{4}$ share of total sale consideration of Rs. 9,10,000/-). The difference of Rs. 5,37,000/- was added by the AO which has been confirmed by the Ld. CIT(A) also on the same reasoning.

3. Before us Ld. Counsel for the assessee submitted that the land sold belonged to him and his three brothers, which was sold for Rs. 9,10,000/- and entire sale consideration was deposited in assessee's bank account. In support, he has filed affidavit of three brothers who jointly owned the property sold during the year. He further submitted that even the bank account of the assessee was in the joint name with his brother. Therefore, the source of further cash deposits is out of the same sale consideration for the land.

4. On the other hand Ld. DR submitted that, these affidavits are after thought and are the fresh evidences and no such explanation was given before the Ld. CIT(A). Therefore, same should not be admitted.

5. After considering the aforesaid submission and on perusal of the relevant material placed on record, I find that out of total cash deposits of Rs. 30,80,000/-, AO has accepted the source of cash deposits of most of the amount and only a part of such deposits amounting to Rs. 5,37,500/- has been added. Now before me, the Ld. Counsel has stated that the source of balance cash deposit is arising out of the sale consideration of the land which was Rs. 9,10,000/- and AO has given benefit of Rs. 25,07,500/- as assessee was $\frac{1}{4}$ co-owner of the said property. In support, affidavit of three other brothers have also been filed before me, wherein they have deposed that they had given sum of Rs. 2 lacs each to the assessee for depositing it in the bank account of the assessee. Since this plea of deposits from brothers' share and their affidavit has been filed for the first time, therefore, it would be appropriate that this issue should be remanded back to the AO who shall examine this plea and the contents given in the affidavit and also examine other three brothers who have filed the affidavit. The assessee shall cooperate with the AO for carrying out necessary verification and inquiry. Accordingly, matter is remanded back to the file of the AO..

6. In the result appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 22nd April, 2019.

sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Dated: 22/04/2019

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Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi