

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES (SMC), JAIPUR

श्री रमेश सी शर्मा, लेखा सदस्य के समक्ष  
BEFORE: SHRI RAMESH C SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1128/JP/2018  
निर्धारण वर्ष / Assessment Year : 2014-15

Smt. Santosh Gupta, 15, Chankyapuri, Behind Teej Hotel, Banipark, Jaipur.	बनाम Vs.	I.T.O., Ward 3(2), Jaipur.
स्थायी लेखा सं./ जीआईआर सं./ PAN/GIR No.: ABRPG 5294 J		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.L. Poddar (Adv)  
राजस्व की ओर से / Revenue by : Ms. Anuradha (JCIT)

सुनवाई की तारीख / Date of Hearing : 18/03/2019  
उदघोषणा की तारीख / Date of Pronouncement : 15/05/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id.CIT(A)-I, Jaipur dated 25/09/2018 for the A.Y. 2014-15 in the matter of order passed U/s 143(3) of the Income Tax Act, 1961 (in short the Act) wherein the assessee is aggrieved for addition of Rs. 29,12,500/- on account of cash deposited in her bank account.

2. Rival contentions have been heard and record perused. The facts in brief are that the assessee is an individual and derived income from

house property, capital gains and income from other sources. Return was filed on 30/12/2016 declaring total income at Rs. 4,12,490/-. During the course of assessment proceedings, the Assessing Officer found that the assessee has deposited cash in her bank account. In support of availability of cash on the date of deposit, the assessee filed cash flow statement. After rejecting the cash flow statement filed by the assessee, the Assessing Officer added Rs. 29,12,500/- in her income. By the impugned order, the Id. CIT(A) confirmed the Assessing Officer's action and the assessee is in further appeal before us.

3. I have heard the rival contentions and carefully gone through the orders of the authorities below and found from the record that the assessee had deposited cash in her bank account no. 51009004348 with SBBJ Ganpati Plaza, Jaipur. While explaining the source of cash deposited in the bank account the assessee explained that she has sold a piece of agricultural land to Shri Dilip Jain urf Deepak Jain for a sum of Rs. 32,62,500/- out of which amount of Rs. 29,12,500/- was received in cash. It was this cash which was deposited in the bank account. In support of the sale of agricultural land the assessee submitted a copy of agreement of sale executed on 23.01.2014. A copy of this sale agreement is available on paper book page no. 1 to 4. As per this sale

agreement the assessee was possessing/owning agricultural land at village Sinwar Patwar Halka Sinwar tehsil Jaipur bearing khasra no. 907/1200. During the course of assessment proceedings the Assessing Officer required evidence of purchase of this agricultural land. The assessee submitted a copy of the registered purchase deed dated 20.04.2011 which evidences the purchase of land from Shri Kajod S/o Shri Ramnath by caste Jat of village Sinwar. Copy of purchase deed is available on paper book page no. 5 to 9. However it so happened that in the purchase deed the khasra no. was different. The purchase deed disclosed khasra no. 907/1143 whereas in the sale deed it was 907/1200. In view of the difference in the khasra no. the Assessing Officer raised doubts regarding the genuineness of sale of agricultural land. The assessee did his best to convince the Assessing Officer and in this regard the purchaser Shri Dilip Jain was produced. His statements were also recorded. But this did not convince the Assessing Officer. The Assessing Officer also wrote a letter directly to the Tehsildar, Jaipur, to confirm the actual khasra No. sold by the assessee. However instead of waiting and getting reply from Tehsildar, Jaipur the Assessing Officer hastily passed the assessment order on 30.12.2016 and made addition of Rs. 29,12,500/- holding the sale agreement as self serving document and the sale was rejected. No effort was made by the Assessing Officer

to depute inspector for getting reply on priority basis from the Tehsildar, Jaipur. However the Tehsildar, Jaipur submitted his report and his reply under his signature dated 28.12.2016 the same is available on paper book page no. 15 and scanned below: -

महोदय,  
मूल की श्रीमान की खेती के क्षेत्र का विवरण है  
कि ग्राम सिवार् स्थित भूमी क्र.नं. 902/1139 रकबा 2.10  
क्र.नं. 907/1143 रकबा 5.10, क्र.नं. 984 रकबा 0-03 क्र.नं.  
915 रकबा 6.17 किला 4 रकबा 15.00 बीघा भूमी सन्त 2016 से  
2069 की जमावकी जाल है 203 में डी कार्ड सहजोते डी  
में डी थी। उम्ह किला 4 कुल रकबा 15.00 बीघा में सहजोते डी  
के बीच बखोए डीने पर क्र.नं. 902/1139 रकबा 2.10, क्र.नं. 907/1143  
रकबा 1.15 क्र.नं. 915, रकबा 2.10, क्र.नं. 916 रकबा 6.17 क्र.नं. 984 रकबा  
0-03 किला 4 रकबा 11-25 रामपाल गोपाल श्री पुमानाथ श्री 2/3 बशीर  
पुत्र भजनसाल ना-बा खेतीका माता मनमा मनमा बेका नादुएन श्री 73  
जाति का के खेती में डी है तथा उपरोक्त क्र.नं. 907/1143 मूल नम्बर  
का दुकड़ा डीने पर नया क्र.नं. 907/1200 रकबा 3-15 अम्बरीश तिवारी  
पुत्र अक्षयकुमार तिवारी श्री 74 दिलीप जैन पुत्र प्रकाशचन्द जैन श्री 74  
सन्तोष गुप्ता धर्मपत्नी पुत्रनाएन गुप्ता श्री 72 के नाम वर्तमान  
कार्ड सन्त 2070 से 2073 की जमावकी जाल है 4 में डी है।  
मूल का यह है कि सहजोते डी द्वारा विभाजन डीने  
पर क्र.नं. 907/1143 रकबा 5.10 बीघा के दुकड़े होकर नया क्र.नं.  
907/1200 रकबा 3-15 बना है। मूल क्र.नं. 907/1143 का रकबा  
1.15 रोष रहा है। यह कि क्र.नं. 907/1143 का बखोए डीने  
से नया नम्बर 907/1200 बना है। अर्थात् क्र.नं. 907/1200 मूल  
क्र.नं. 907/1143 का ही है।  
दिनांक 28.12.16

4. I have perused the report of Tehsildar dated 28/12/2016 whereas the Assessing Officer had passed order on 30/12/2016. As per

report of Tehsildar after division of land on sale, new khasra No. was 907/1200. Thus there is no reason to disbelieve the sale deed mentioning khasra No. 907/1200, which was 907/1143 when the assessee purchased it. However, the Assessing Officer has also doubted statement of Shri Dilip Jain. He also mentioned that the statement of Shri Dilip Jain was tutored. From the record I find that, the same land was further sold by so called cooperative society by backdating to 28 persons. The information was called u/s 133(6) from those persons and some of them have only accepted the transaction, therefore the Assessing Officer disbelieved the transaction and add the Rs. 29,12,000/- in the income of the assessee.

5. From the record, I found that the Tehsildar vide his letter dated 28/12/2016 has clarified that on breakup of agricultural land bearing khasra no. 907/1143 a further khasra no. 907/1200 was generated. Therefore in the facts and circumstances of the case the doubts of the Assessing Officer was baseless in so far as the controversy of difference in khasra number in purchase and sale deeds is settled, the addition deserves to be deleted.

6. I also found that while confirming the addition, the Id. CIT(A) has stated at page No. 8 of his order that the source of the source is not

proved because there is nothing on record which may established that the plots were not allotted in the year 1997 as stated by number of buyers of these plots. I found that the Id. CIT(A) did not consider the statement of Dilip Jain who has confessed that the pattas were allotted on same land belonging to the assessee to various persons and cash were received which was paid against the sales consideration of land to the assessee and the assessee has deposited the same sales consideration in her bank account and the sale of land was duly disclosed by the assessee in her income tax return and tax on capital gains was also paid.

7. In view of the above facts and circumstances, I do not find any merit in the addition so made. Accordingly, the Assessing Officer is directed to delete the same.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 15<sup>th</sup> May, 2019

Sd/-  
(रमेश सी शर्मा)  
(RAMESH C SHARMA)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur  
दिनांक / Dated:- 15<sup>th</sup> May, 2019

**\*Ranjan**

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellants- Smt. Santosh Gupta, Jaipur.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward 3(2), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 1128/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar