

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC', NEW DELHI**

**BEFORE MRS. DIVA SINGH, JUDICIAL MEMBER**

**ITA No.4740/Del/2015  
Assessment Year: 2001-02**

Sh. Ramji Prasad, A-4, Opposite JCB, Sector-59, Faridabad. PAN : ABFPP 7914C <b>(Appellant)</b>	<b>Vs.</b>	Income Tax Officer, Ward-I(4), Faridabad. <b>(Respondent)</b>
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Appellant by	None
Respondent by	Sh. Pradeep Singh Gautam, Sr. D.R.
Date of hearing	03.02.2020
Date of pronouncement	06.02.2020

**ORDER**

The present appeal has been filed by the assessee wherein the correctness of the order dated 16.04.2015 of CIT(A)-Faridabad pertaining to 2001-02 assessment year is assailed on the following grounds.

- “1. The ld. CIT(A) erred on facts and circumstances of the case & law in confirming the addition of Rs. 11,33,600/- made by the Assessing Officer on account of income from undisclosed sources especially ignoring the fact that the material relied by the ld. Assessing Officer was contradictory, insufficient and unreliable in nature and reasons for making the addition were not conclusively proved against the appellant.*
- 2. The ld. CIT(A) erred in disposing off the Ground No.2 on the premises unconnected and alien with the ground raised and further under these circumstances the submissions made by the appellant survived.”*

2. At the time of hearing, no one was present on behalf of the assessee. The appeal was passed over even in the second round the position remained the same. However on going the material available on record it was deemed appropriate to proceed with the present appeal ex-parte qua the assessee appellant on merits of the hearing the ld. Sr. DR.

3. The ld. Sr. DR relying upon the impugned order submitted that the appeal of the assessee is not maintainable. Specific attention was invited for para 4 of the impugned order to state that it was the second round is before the ITAT and despite this the assessee has failed to substantiate its claim. It was his submission that based on the seized documents found from the residential premises of one Sh. Navneet Jhamb, a property broker, during the course of search operation documents were found which showed that the assessee had made payment in cash for property amounting to Rs.11,33,600/-. The relief granted by the CIT(A) was challenged by the Revenue before the ITAT. The ITAT had held that the CIT(A) had erred in holding that the AO had in sufficient reasons to reopen the case. The issue had been remanded back by the ITAT vide ITA No.3832/Del/2019 dated 28.04.2010 to the Assessing Officer. The addition was made in the second round also. The relevant discussion in para 7 of the impugned order on the merits of the addition and the submissions of the assessee extracted in para 7.1 referred to page 6 of 9 was adduced to argue that the assessee's submissions have been dealt with. In the absence of any infirmity in the order, it was prayed that the addition may be sustained. For ready reference para 7 to 7.2 relied upon is extracted herein below:

*"7. Ground No. 3 With this ground the appellant has challenged the addition made by the AO to the tune of Rs. 11,33,600/-. The facts relevant to this ground are that a search operation was undertaken at the premises of a property broker by the name of Shri Navneet Jhamb. During the course of search proceedings, the seized documents recovered from the residential premises of Shri Navneet Jhamb marked as 61/A1 revealed that the actual consideration exchange between the seller and the buyer for the industrial plat No.A-4 purchased by the appellant was Rs.16,23,600/- out of which the cheque component was for Rs.4,90,000/- and the balance Rs.11,33,600/- was paid by the appellant to the seller in cash. These facts have been elaborately discussed at Page 3 and 4 of the assessment order. Subsequently, from Page 5 to Page 11 of the assessment order, the nature of the seized documents and the various entries reflected and the seized documents have been elaborately discussed by the AO. A perusal of the assessment order and the submissions made by the appellant reveal that the fact that the appellant has purchased the property through the broker, Shri Navneet Jhamb is not in dispute either by the Department or by the appellant. The only issue of dispute is whether the appellant did actually pay Rs.11,33,600/- to the seller of the property through Shri Navneet Jhamb, the broker, In this regard the learned counsel of the appellant filed written submissions dated 08.07.2014, which is reproduced below:*

*"As the LD Assessing Officer, has no proof in his possession that actual sales price paid by the assessee was Rs. 1623600/- and not Rs, 490000 and balance Rs 1133600 was paid in cash, the ld Assessing Office, ought to accept the actual sales*

price at Rs. 490000 and there was no need to make any addition to the returned income.

Keeping in view the above discussion, it is requested that the addition of Rs.11,33,600 may kindly be deleted.

7.1 The Learned counsel of the appellant has filed reply dated 02.03. 2015 has also reproduced below.

*"The plot was purchased by the assessee from M/s Indo American Eolectricals Ltd. being represented by Shri Man Mohan Singh, through M/s Reliance Estate Agencies being represented by Shri Navneet Jhamb.*

*Shir Navneet Jhamb says that he received no money against sales from the assessee as he did not see any plot to the assessee (P. No 4 para 3 of the Paper Book) and the assessee denies having paid any money to Shri Navneet Jhamb (page No 5 para 7 last three lines of the Paper Book). As such he had no knowledge of the exact sales consideration especially in the background that in his statement during search, Shri Navneet Jhamb explained that that the information in the seized material were projections only. Hence only assessee and Shri Man Mohan Singh could confirm the exact sales consideration. Moreover they were purchased and seller. The assessee has already denied the allegation that he paid sales consideration of Rs 1623600 instead of Rs 490000 being mentioned in the sales deed (Page No 6 para 1 of the Assessment Order). There is no statement of Shri. Man Mohan Singh in the context of search being carried on M/S Reliance Estate Agencies. Even in Remand proceedings there is no confirmation on his part (though inspector visited him for serving notice 131 of the Act but reported that Shri Monmohan Singh was too old and too sick to be served the notice), the Id AO had no issue with the reply submitted by Shri Navneet Jhamb in response to the notice u/s 131 of the Act. Under these circumstances, Id AO could not prove that the exact sales consideration paid for the purchase of plot under question was Rs 1623600 instead of Rs 490000 which was paid in cheque and rest Rs. 1133600 was paid in cash, thereby rendering the addition of Rs 1133600 unnecessary, uncalled for and being made on the basis of conjectures & surmises. Being illegal, the same may kindly be deleted and relief of Rs 1133600 may kindly be granted to the appellant."*

7.2 The Crux of the appellant's submission is as below:

- (i) The AO has no proof in his possession to substantiate that Rs.11,33,600/- was paid in cash by the appellant.
- (ii) The papers seized from the premises of Shri Navneet Jhamb are in the nature of "projections" and thus not the actual sale purchase transaction.

*The contention raised by the .learned counsel of the appellant bjrings us to seized record obtained from the residential premises of Shri Navneet Jhamb, which has been reproduced by the AO on Page 6 to Page 11 of the assessment order. On Page 6 of the assessment order, Page 1 of annexureA-1 has been reproduced. This document clearly shows the name of the plot, the name of the buyers of the plots, cheque issued by the buyer for purchase of these plots and the cash components paid by the buyers against such plots. The plot purchased by the appellant i.e. A4 is reflected at Serial No. 4 of this list and the exact amount paid by the appellant by cheque, for the purchase of this plot is reflected on this document. Perusal of Page 7 of the assessment order reveals that the plots not sold as on 31.10.2001 are also listed in this annexure. Besides this, there are complete details bf the expenses made in relation to these properties and subsequently, the cash being paid to the seller of the property i.e. Mr. Manmohan Singh. Subsequently, the Pages 8 to 10 of the assessment order reveal the day to day expenses of Shri Navneet Jhamb including the residential telephone expenses mobile bill expenses etc, which clearly prove that the documents reflect the actual transactions and are not in the nature of "projections" as alleged by the appellant. These papers show the actual cash and cheque receipts received by Shri Navneet Jhamb'on behalf, of the seller of the property from various people along with the expenses made by him during, this period and the commission received by him from the seller of the property i/e/ Mr. Manmohan Singh. In tr s regard, it is pertinent to see Page 9 of the assessment order wherein*

*the property A-4 i.e. the property bought by the appellant) has once again been mentioned and it is shown that the total transaction value of the property was Rs. 16,23,000/- on which commission @ 1% has been received by the broker i.e. Shri Navneet Jhamb at Rs. 16,500/- (rounded off). Thus, from analysis of the seized record seized from the residential premises of Shri Navneet Jhamb, it is evident that the seized documents reflect the true state of affairs, as far as the sale and purchase of these properties are concerned. It is absolutely clear that these are not "projections".*

3.1 In the light of the above facts on record it was his prayer that the appeal is dismissed.

4. On going through the explanation offered and the reasoning extracted in para 7.2 of the impugned order, I find myself in agreement with the finding of the Id. CIT(A) that these were not mere projections of broker Sh. Navneet Jhamb. In the absence of any fact or evidence to the contrary I hold that the submission of the assessee have been adequately dealt with by the Id. CIT(A). Accordingly, I find that there is no merit in the assessee's appeal satisfied with the reasoning and the finding on the facts on records the appeal of the assessee is dismissed. Said order was pronounced in the open court at the time of hearing itself.

5. In the result, the appeal of the assessee is dismissed.

**The order is pronounced in the open court at the time of hearing itself on 06<sup>th</sup> February, 2020.**

Sd/-  
**(DIVA SINGH)**  
**JUDICIAL MEMBER**

PK/Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR,  
ITAT NEW DELHI