

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.8330/DEL/2019
Assessment Year: 2016-17

Krishna Nandan C-74, Air India Employees, CGHS Plot No.9, Sector-3, New Delhi PAN No.ACHPN3910F	Vs	ITO Ward – 43 (4) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Ms. Anupam, Advocate
Respondent by	Sh. Sohail Malik, Sr. DR

Date of hearing:	30/06/2021
Date of Pronouncement:	30/06/2021

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-15, Delhi dated 23.08.2019 pertaining to A.Y. 2016-17.

2. The grievance of the assessee reads as under :-

GROUND OF APPEAL

I am not agreeing with the computation of Income made by assessing officer.

Computation of Income by the Assessing officer as under:

Income Consideration (Property at Hazari Bagh)	:	<u>4100000/-</u>
Income Consideration (Credit Card Payment)	:	<u>338210/-</u>
Income Consideration (cash deposit in kotak Mahindra bank)	:	<u>1421000/-</u>
Accutal Income Declared By me :		<u>1063720/-</u>
Total Income Calculated For Tax Cal.		<u>6922930/-</u>

Demand calculated by A.O. is Prejudicial to me and, if appeal is not allowed to be proceeded it amounting to against the law.

I am genuine in the eye of law and followed valid procedure for computation of Income.

Addition of 4100000/- :- In this matter I want to give clarification that property of hazari bagh which is added to my undeclared income Is not on my name and I have not made any payment of the said property from my account .This property is on name of M/s Nagarka Properties and finance private limited and my Pan number is accidently mentioned in that.

Addition of 338210/-:- In this matter I want to give clarification that the payment was made to credit card bills and credit card is utilized for daily requirements

Addition of 1421000/-:- In this matter I want to give clarification some of the cash deposited was self withdraw from the account only for daily needs and some was agricultural income which was exempt from taxation .

Hope above ground of appeal is valid for taking the matter in appeal.

3. Briefly stated the facts of the case are that the assessee filed his return of income on 01.08.2016 declaring income at Rs.1063720/-. The return was selected for scrutiny assessment and accordingly statutory notices were issued and served upon the assessee.

4. During the course of the scrutiny assessment proceedings the AO noticed that the assessee has deposited cash of Rs.14.21 lacs in Kotak Mahindra Bank and has also made the credit card payment of Rs.3,38,210/-. The AO further noticed that the assessee has purchased a property of Rs. 41 lacs.

5. The AO issued a show cause notice and asked the assessee to explain the source of investment in the property, credit card payment and cash deposited in the bank.

6. On receiving no plausible reply the AO made the impugned additions.

7. Assessee carried the matter before the CIT(A) and explained that the property was purchased by M/s. Nagarka Property and Finance Private Limited on which the PAN of the assessee was used. In so far as the cash deposited in the bank and credit card payment is concerned the assessee furnished the copies of the bank statements before the CIT(A).

8. None of the explanation found merit with the CIT(A) who confirmed the assessment.

9. Before us the counsel for the assessee reiterated what has been stated before the lower authorities and the DR relied upon the findings of the AO/CIT(A).

10. We have carefully considered the orders of the authorities below. We have also gone through the relevant documentary evidences brought on record before us.

11. We find that the impugned property was purchased by M/s. Nagarka Property and Finance Private Limited through director Brigadier Krishna Nandan. Since the property was purchased in the name of a legal person, the PAN number of natural person has been mentioned. It can be seen from the purchased deed that it has been specifically mentioned that the property has been purchased by M/s. Nagarka Property and Finance Private Limited through director/ Brigadier Krishna Nandan. In our considered opinion since the assessee has not purchased any property in his own name we do not find any merit in the addition made by the AO the same is accordingly directed to be deleted. In this finding we find support from the Bank Statements, Nagarka Property and Finance Private Limited from where we have verified the payments made to the seller Prabha Sinha addition of Rs. 41 lacs is directed to be deleted.

12. In so far as the cash deposit in the Kotak Mahindra Bank is concerned. We have carefully perused the bank statement which is part of our record. We find that on every entry of cash deposit the Nomenclature is cash deposit @ Dwarka. The assessment order and also the order of the first appellate authority is

completely silent on such entries made by the person mentioned in the bank statements. The AO's finding read as under :-

“In view of the above total cash deposit in Kotak Mahindra Bank Limited amounting to Rs.14.21 lacs is added in his total income under head of undisclosed source of income u/s. 68 as no explanation of cash deposit has been given by assessee”

13. This finding of the AO has been confirmed by the CIT(A).

14. Neither of the lower authorities has verified the cash withdrawal in the bank statement.

15. Considering the peculiar facts of the case where neither the AO has given any specific finding for making the additions nor the assessee has given any explanation. Further we do not find any substantial balance in the said bank account and considering the fact that the assessee is a ex Army Men retired as Brigadier we direct the AO to restrict the addition to Rs.3.5 lacs. The assessee gets a part relief.

16. The addition on account of credit card payment amounting to Rs.33,8210/-added as payment for which no explanation of the sources has been given, since we have confirmed the addition of Rs.3.50 lacs this should become the source of credit card

payment accordingly we direct the AO to delete the addition of Rs.3,38,210/-.

17. In the result, the appeal filed by the assessee is partly allowed.

18. Decision announced in the open court in the presence of both the representatives on 30.06.2021.

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

NEHA

Date:-30.06.2021

Copy forwarded to:

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

Sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	30.06.2021
Date on which the typed draft is placed before the dictating Member	30.06.2021
Date on which the typed draft is placed before the Other member	30.06.2021
Date on which the approved draft comes to the Sr.PS/PS	30.06.2021
Date on which the fair order is placed before the Dictating Member for Pronouncement	30.06.2021
Date on which the fair order comes back to the Sr. PS/ PS	30.06.2021
Date on which the final order is uploaded on the website of ITAT	30.06.2021
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	