

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

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

(Through Video Conferencing)

ITA No. 7853/Del/2017 : Asstt. Year : 2012-13

Dinesh Bansal, C-46, 1 st Floor, Shopping Complex, Sector-20, Noida	Vs	Income Tax Officer, Ward-4(1), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AFBPB3719H		

Assessee by : Sh. Rajiv Jain, CA

Revenue by : Sh. Ajay Kumar, Sr. DR

Date of Hearing: 03.08.2021

Date of Pronouncement: 11.08.2021

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-2, New Delhi dated 15.09.2017.

2. We have gone through the facts of the case and the evidences available on record. We find that the amount of Rs.2,38,75,000/- has been paid by the assessee to obtain the premises under unencumbered way. Relevant confirmations have been filed by the assessee along with the detail of the cheques and the source of the cash wherever paid. Two individuals namely, SM Abbi and Suveer have shown it in the return and one recipient has confirmed before the Id. CIT (A). The details are as under:

S.No.	Name	Amount(Rs.)	Evidence of payment
1.	K.D. Ahuja	6,25,000	Bank statement, cash book, confirmation, Driving license
2.	Lalit	20,00,000	Bank statement, confirmation, Voter Card -NCJ0311126
3.	Natl. Milk Supply	6,75,000	Bank statement, confirmation
4.	Neeta Katyal	1,50,00,000	Bank statement, MoU, confirmation, Civil suit details
5.	Praveen Sahni	10,00,000	Bank statement, cash book, confirmation, no ID in the paper book
6.	Prem Pal	9,00,000	Confirmation, cash book, Voter Card-SZM0914895
7.	Surender M Abbi	13,75,000	Bank statement, cash book, return filed
8.	Suveer Abbi	13,75,000	Bank statement, cash book, return filed
9.	V.N. Duggal	4,00,000	Bank statement, Court proceedings,
10.	House Tax	8,69,100	Bank statement
11.	Legal Charges	30,900	Bank statement

3. The details of the payments made to the recipient have been duly reflected in the bank account of the assessee and the assessee has duly provided all the details to the revenue authorities.

4. With regard to the payment of Smt. Neeta Katyal of Rs.1,50,00,000/-, we find from the record that an MoU entered between the recipient and the payer with regard to the dispute of the property and the eviction thereof before the SCCM Delhi. The compromise petition was duly signed by Smt. Neeta Katyal, Ujwal Katyal and Umang Katyal and there is no dispute that Smt. Neeta Katyal has received money of Rs.1,50,00,000/-.

Smt. Neeta Katyal has not replied to the notices issued by the revenue department. There was no petition/complaint before the SCCM with regard to default of the payments as agreed upon in the MoU signed in the presence of SCCM.

5. However, the revenue failed to bring this amount to tax in the hands of Smt. Neeta Katyal & Others while the evidence clearly shows the payments have been received by Smt. Neeta Katyal & Others. It is for the revenue to bring the amount to tax in the hands of Smt. Neeta Katyal & Others instead of denying the benefit of the amount paid by the assessee for vacating the premises.

6. Hence, we hereby direct that the assessee be allowed the benefit of payments made to the tenants in computation of capital gains.

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

Order Pronounced in the Open Court on 11/08/2021.

Sd/-

(Amit Shukla)
Judicial Member

Dated: 11/08/2021

Subodh

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR