

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “SMC” BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.3946/Del/2017
[Assessment Year : 2011-12]**

Vijay pal, Near Krishan Gaushala, Charkhi Dadri, Charkhi, Dadri, Haryana. PAN-AXOPP6668G	vs	ITO, Ward-2, Bhiwani.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Anil Kumar Sharma, Sr.DR	
Date of Hearing	14.02.2022	
Date of Pronouncement	17.03.2022	

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2011-12 is directed against the order of Ld. CIT(A), Hisar dated 31.01.2017. The assessee has raised following grounds of appeal:-

1. *“That the learned Assessing Officer is wrong in considering capital account balance Rs. 14,00,000/- as undisclosed income.*
2. *That the learned Assessing Officer has not rejected the income and expenditure account, Capital account, balance sheet of the Assessee filed by the Assessee with his*

return, rather these accounts have been believed by the A.O.

3. *That the learned Assessing Officer is wrong in determining the income of Rs. 4246200/- and imposing the additional income tax Rs. 15,79,910/- .*
4. *That the order of the learned Assessing Officer is not according to the facts and is wrong.*
5. *That the learned Assessing Officer is wrong in imposing the interest u/s 234A, 234B, 234D of the Income Tax Act.”*

2. At the time of hearing, no one appeared on behalf of the assessee. The notices sent by the Registry through speed post have returned back unserved by the Postal authority with the comment “*adhura pata, wapis*”. The assessee has not provided any other address to the Registry. Therefore, the appeal is taken up for hearing in the absence of the assessee.

FACTS OF THE CASE

3. Facts giving rise to the present appeal are that the assessee filed return of income declaring income of Rs.1,59,200/- on 09.08.2011. The case was selected for scrutiny assessment through CASS and the assessment u/s 143(3) of the Income tax Act, 1961 (“the Act”) was framed vide order dated 28.02.2014 by the Assessing Officer (“AO”). During the course of assessment

proceedings, the AO noticed that the assessee had been maintaining Saving bank account with HDFC Bank bearing No.1968100000731 and with Punjab National Bank bearing No.0577000102369134. On examination of the bank accounts, it was found that the assessee had made various cash deposits therefore, the assessee was asked to explain the source of cash so deposited in the bank accounts held by him. In response thereto, the assessee stated that he had sold agricultural land and also took loan for business purpose. The contention of the assessee was not accepted fully and the Assessing Officer made addition of Rs.40,87,000/- and assessed taxable income at Rs.42,46,200/- against the declared income of Rs.1,59,200/-.

4. Aggrieved by this action of the AO, the assessee filed an appeal before Ld.CIT(A) who dismissed the appeal.

5. Now, the assessee is in appeal before this Tribunal.

6. The only effective ground in this appeal is against the sustaining of addition of Rs.40,87,000/- as made by the Assessing Officer.

7. Ld. Sr. DR supported the orders of the authorities below. He submitted that the assessee grossly failed to furnish the supporting evidences regarding his claim that money was deposited out of sale of agricultural land and the loan taken from friends. He contended that it was incumbent upon the assessee to prove the source of deposits of money in his bank accounts. He therefore contended that the action of the authorities below is justified and no interference is called for under the facts and circumstances of the present case.

8. I have heard Ld. Sr. DR and perused the material available on record and gone through the orders of the authorities below. I find that Ld.CIT(A) dismissed the appeal by observing as under:-

“A perusal of the facts of the case reveal that additions were made on account of :-

- (1) Opening balance: A sum of Rs 14,00,000/- was added to the opening balance. No explanation has been offered before the AO or before me to explain the source of the opening balance in the books of account given the fact that there was no sufficient amount in credit in the bank account at that point of time. The addition is justified and confirmed.*

- (2) *Unsecured loans: A sum of Rs 15,00,000/- was added. Only one person was produced out of the three loan givers. Shri Hari Om who appeared before the AO and who had lent Rs 2,50,000/- did not have the capacity to advance the said amount as detailed by the AO. The appellant had just explained his inability to produce the other two persons. Even before me, no tangible explanation has been offered.*
- (3) *As far as the addition of Rs 3,50,000/- is concerned in respect of an advance received by the assessee, the amount does not figure in the books of accounts. The addition was made correctly. I confirm the said addition.*
- (4) *As far as the addition of Rs 8,37,000/- is concerned, no evidence to prove that a legitimate sale was made has been furnished. I, therefore, confirm the said addition.*

4. *In the result, the appeal is dismissed.”*

9. It is further seen that the assessee had stated before the AO as under:-

"Assessee has sold his agriculture land to Smt. Ritu Devi W/o Sh. Narender S/o Sh. Tara Chand R/o Village Pilana, Tehsil & District Rohtak and Smt. Sumitra W/o Sh. Manoj S/o Sh. Mange Ram R/o Village Jharli Tehsil & District, Jhajjar on the date 09-11-2010 for consideration of Rs. 2,89,000/- which amount was received in part and deposited in HDFC bank account.

Assessee has two saving accounts in his name one is in PNB bank Charkhi Dadri having account No. 0577000102369134 and other is in HDFC bank, Charkhi Dadri having account No. 19681000000731. Statement of both accounts is enclosed.

Assessee and his brother Shri Dharampal has sold his agriculture land to Smt. Sumitra Devi W/o Sh. Satish Kumar S/o Sh. Mohabat Singh R/o Village Rawaldhi, Bhiwani on the date 21-03-2011 for consideration of Rs.4,16,000/- which has been deposited in HDFC bank on 11-03-2011.

The assessee has sold his agriculture land to Smt. Santra Devi W/o Sh. Ram Niwas S/o Sh. Bhodu Ram on the date 11-02.2011 for consideration of Rs.2,21,000/- which has been deposited in HDFC bank on 11-03-2011.

Brother of the assessee Shri Dharampal has sold agriculture land to Smt. Guddi W/o Sh. Sita Ram on the date 04-08-2010 for consideration of Rs. 1,50,000/- out of which Rs. 1,00,000/- has been deposited in HDFC bank on 25-09-2010.

Brother of the assessee Shri Dharampal has received advance money of Rs. 1,00,000/- for sale of agriculture land which has been deposited in HDFC bank on 22-03-2011.

The assessee has received Rs. 2,50,000/- from Shri Hari Om S/o Sh. Ram Kumar Village Jhinjar, Tehsil Charkhi Dadri, Bhiwani for business purpose on the date 09-03-2011 for which affidavit received from Shri Hari Om is attached.

Assessee has received Rs. 2,50,000/- from Shri Parveen S/o Sh. Hariom R/o Village Jhinjar, Tehsil Charkhi Dadri, Bhiwani for business purpose on the date of 07-03-2011 for which affidavit received from Shri Parveen is attached.

Assessee has received Rs. 10,00,000/- from Shri Bani Singh R/o Village Bharvi Tehsil Charkhi Dadri, Bhiwani for business purpose on the date 28-02-2011.”

10. It is seen from the findings of the authorities below that veracity of the contention of the assessee was not verified by making independent enquiry. It was the case of the assessee before the authorities below that he had sold agricultural land and received sale consideration. But no effort has been made by the assessing authority to verify whether such contention was correct. The AO made addition purely on the basis that the assessee failed to provide copy of the registered sale deeds. It is seen that the assessee had provided name of the buyer of the land with address but no inquiry was made. The AO was required to make inquiry to verify whether any sale transaction related to agricultural land took place and what was the sale consideration. No such effort was made. Even before Ld. CIT(A), the contention of the assessee was same however, no inquiry was made. Therefore, looking to the facts and circumstances of the present case, I hereby set aside the

impugned order and restore the assessment to the file of the AO for making assessment afresh. The AO would verify the contention of the assessee regarding sale of agricultural land by him and decide the issue afresh. The grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 17th March, 2022.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

Amit Kumar

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI