

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

(THROUGH VIDEO CONFERENCING)

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No.7523/Del/2019

[Assessment Year : 2011-12]

Amit Kumar Malik, H.No.585, Sec-9A, Gurgaon, Haryana-122001. PAN-AMKPM0657K	vs	ITO, Ward-1(1), Gurgaon.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Sanjay Kumar, Sr.DR	
Date of Hearing	24.02.2022	
Date of Pronouncement	12.04.2022	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2011-12 is directed against the order of Ld. CIT(A)-I, Gurgaon dated 19.06.2019.

The assessee has raised following grounds of appeal:-

1. *“The Ld. Commissioner of Income Tax, Appeals (CIT(A)), erred on facts and in law in confirming the order of the Assessing Officer (AO) and holding that the cash gift received by the appellant from his father tends to be his income.*
2. *Ld. AO erred on the facts of the case by not considering the documents of ownership of land submitted by the appellant during the assessment proceedings.*

The Ld. Commissioner of Income Tax, Appeals (CIT(A)), further erred on facts of the case by not considering the documents of ownership of land submitted by the appellant along with Form 35, which affirmed that the father of the appellant held approximately, 5 acres of land.

2.1. *The Ld. AO erred on the facts of the case by not considering to the fact of income which can be earned by the father of the appellant during a year.*

The Ld. Commissioner of Income Tax (CIT(A), further erred on the facts of the case by not giving a suitable opportunity to submit the relevant details/ documents to justify the income of the father of the appellant.

2.2. *The Ld. AO erred on the facts of the case and the circumstance by not considering the fact that the father of the appellant being a owner of 5 Acres of land and in the business of farming can easily save up to Rs. 7,75,000/- in his till date business.*

The Ld. Commissioner of Income Tax, Appeals (CIT(A)), further erred on the facts by considering that even though a maximum Rs. 40,000/- could be the total saving of the father of the appellant, he could not save 7,75,000/- out of that.

3. *The Ld. Commissioner of Income Tax, Appeals (CIT(A)), erred on the facts of the case by not considering the affidavits duly sworn by the father of the appellant for the cash gift provided by him to his son (Appellant) as a consideration for the purchase of land.*

4. *The above grounds are all independent and without prejudice to one another. The appellant craves leave to supplement, cancel, amend, add and/ or otherwise alter/ modify any or all the grounds of appeal stated hereinabove.”*

2. At the time of hearing, no one appeared on behalf of the assessee. It is seen from the record that since 21.12.2020, no one has been appearing on behalf of the assessee. The notice sent by the Registry through speed post has returned back unserved by the Postal authority with the comment “left”. The assessee has not provided current 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 no return of income was filed by the assessee. As per the information available with the Assessing Officer ("AO"), the assessee had deposited cash to the tune of Rs.10,17,900/- in his bank account and received salary of Rs.8,26,928/-. Therefore, the AO reopened the assessment u/s 147 of the Act. Thereafter, notice u/s 148 of the Income Tax Act, 1961 ("the Act") was issued to the assessee. In response to the notice, the assessee filed his reply declaring salary income of Rs.7,26,929/- on 17.08.2018. Thereafter, notice u/s 143(2) of the Act was issued to the assessee. In response to this, Ld. Authorized representative of the assessee attended the proceedings and filed the reply. In response to the query regarding source of deposit of the amount, the explanation for cash deposit was that the assessee had received gift from his father and loan from his friend, Shri Upender Kumar. However, the AO after verifying the bank statements of the father and the friend of the assessee, given a finding that there was no withdrawal by them in commensurate with the deposits made by the assessee.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A) who after considering the submissions, dismissed the appeal of the assessee.

5. Aggrieved against the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

6. Ld. Sr. DR supported the orders of the authorities below and submitted that the assessee grossly failed to explain the source of cash deposits and the

explanation given or have been received as gift. It was noticed that these persons have not withdrawn the above amounts.

7. 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 the contention of the assessee before the authorities below was that out of the amount deposited, a sum of Rs.7,75,000/- was received from father and a sum of Rs.1,50,000/- was received from his friend, Shri Upender Kumar. However, on examination of the bank statements of these persons, the AO found that there were no cash withdrawals during the year. The assessee has not provided any explanation regarding non-withdrawal of the amount by the father and friend of the assessee. He has also not stated that what was the source of availability of cash with him. Therefore, the explanation of the assessee was lacking supporting evidences. Under these facts, I do not see any reason to interfere in the finding of the authorities below, the same is hereby affirmed. Grounds raised by the assessee are therefore, dismissed.

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

Order is pronounced in open Court on 12.04.2022.

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