

**IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "D": NEW DELHI]**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
A N D
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA. No. 6344/Del/2017
(Assessment Year: 2009-10)

Shri Gautam Wadhwa, J - 242, Sector : 25, Noida, Uttar Pradesh. PAN: ABBPW6074G	Vs.	DCIT, International Taxation, Circle Noida, Noida. Uttar Pradesh.
(Appellant)		(Respondent)

Assessee by :	Shri Gautam Wadhwa; [Assessee in Person]
Department by :	Shri Sanjay Kumar, Sr. D. R.;
Date of Hearing :	11/04/2022
Date of pronouncement :	13/04/2022

ORDER

PER ANUBHAV SHARMA, J. M. :

1. The assessee has preferred this appeal under Section 250(6) of the Income Tax Act, 1961 (hereinafter referred to as the Act) against order dated 26th July, 2017 in Appeal No.83/CIT(A)-2/2016-17 for the assessment year 2009-10 passed by the Commissioner of Income Tax (Appeals)-2, Noida (hereinafter referred to as ld. First appellate authority or in short ld. FAA) against assessment order dated 9.12.2016 under Section 147/144 of the Act passed by the assessing officer, Deputy

Commissioner of Income Tax, International Taxation, Noida
(hereinafter referred to as Id. A O).

2. The facts in brief are that the assessee, a non-resident Indian, was found to have invested Rs.1,16,40,180/- in purchase of a property devilling unit. According to the Assessing Officer the source of investment was not clear from the submissions of assessee and after relevant enquiry and giving opportunity to the assessee, the Id. Assessing Officer considered that the assessee has failed to give reply to the queries and disbelieving the claim of the assessee that he has been regularly transferring money to India from his savings and for which no corroborative bank statement, explaining the source, were furnished, the full amount of investment was added to the income of the assessee. To which the assessee preferred an appeal and the Id. FAA on the basis of remand report proceedings about verification of the bank account statements of the assessee observed that of the total Rs.1,16,40,180/- the assessee has failed to explain Rs.9,00,000/-. To which the assessee has come in appeal raising the following grounds of appeal:-

“1. The order of the CIT(A) is erroneous on the facts and in the law. On the facts and in the circumstances of the case he ought to have accepted the explanation regarding the source of amount paid investment in the property.

2. The learned assessing officer is not justified in treating the amount of Rs 9,00,000/- as unexplained investment on the plea that the bank statement of the account from where it has been debited for making pay order is not present. On the facts and in the circumstances of the case he ought to have accepted the amount expended towards the valid investment as sufficient evidences have already been produced such as builder receipt, copy of pay order, reconciliation of rest of the payment made of towards the purchase of the property of Rs 1,07,40,180/-.

3. The learned assessing officer is not justified in disallowing the source of the payment made for the purchase of property to the tune of Rs 9,00,000/- by invoking the provisions of unexplained investment. On the facts and in the circumstances of the case he has failed to appreciate that the assessee has worked with the Ministry of Finance, Government of Singapore, the assessee has earned the legitimate annual income of Rs 1 Crore during the period of his employment, the father of the assessee was an officer in Indian Air Force, the assessee has transferred the salary income to her mother account from where the said pay order in question was prepared.

4. The learned assessing officer is not justified in disallowing the source of payment on the fact that the copy of said bank account statement could not be produced because of the reason that the bank account was very old and got closed and therefore bank officials were not able to provide such bank statement. However, the assessee duly produced the other documents to substantiate the said transaction during the course of proceedings viz. Copy of pay order in the name of builder, receipt issued by builder for the said amount in this regard on that date etc. Now the said bank statement is also available on records.

5. The learned assessing officer is not justified in not affording another opportunity to the appellant to produce the bank statement or call for the bank statement from the bank itself as per section 133(6) before deciding the case.

6. The appellant prays that the addition of Rs 9,00,000 made in respect of unexplained investment be deleted.

7. The appellant craves leave to add, amend, alter vary and / or withdraw any or all the above grounds of appeal.”

3. Heard the assessee in person and the ld. Sr. DR for the Revenue and perused the record.
4. During hearing of the arguments it transpired that the assessee has somehow failed to produce the relevant entries with regard to Rs.9,00,000/- as the bank account statement of the relevant account was not made available by the bank till the time the assessee approached senior management of the bank and thereafter assessee could lay hand on the statement of account,

which have been placed on record in the paper book at page Nos. 35 to 37. Assessee claims that when this statement of account is reconciled with the transactions he has reported to the tax authorities he is able to explain the remaining Rs.9,00,000/- also.

5. The bench is of the considered opinion that as ld. FAA has deleted substantial amount of addition except to the extent of Rs.9,00,000/- so the ends of justice will be served by giving assessee an opportunity to explain the source of Rs 9,00,000/- before the ld. FAA on the basis of account statement procured subsequently.
6. Accordingly, the **appeal is allowed for statistical purposes** and the matter is restored to the files of ld. First appellate authority with a direction to take into account the further evidence of the assessee with regard to Rs.9,00,000/- and thereafter pass a fresh order and for that end give adequate opportunity of hearing to the assessee.

Order pronounced in the open court on : **13/04/2022.**

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Sd/-

**(ANUBHAV SHARMA)
JUDICIAL MEMBER**

Dated : 13/04/2022.

MEHTA

Copy forwarded to :-

1. Appellant;

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

ASSISTANT REGISTRAR
ITAT, New Delhi.