

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'SMC' NEW DLEHI**

**BEFORE SHRI C.M. GARG, JUDICIAL MEMBER**

**ITA No. 1878/Del/2020  
Assessment Year: 2014-15**

Jasmer Singh Mann, vs. Income-tax Officer,  
Vill. Bhandaheri, PO Mundhal, Ward-5, Hisar.  
Bhiwani  
**PAN : ALMPM6340G**  
(Appellant) (Respondent)

Appellant by : Sh. Rajesh Popli, Adv.  
Respondent by: Sh. Om Prakash, Sr. DR

Date of hearing: 02.05.2022  
Date of order : 02.05.2022

**ORDER**

This appeal filed by the assessee is directed against the order dated 14.02.2019 passed by Id. CIT(A)-32, New Delhi for the assessment year 2010-11 on the following grounds :

*"1. On the facts and in the circumstances of the case as well as subject on the law, Id. CIT(A) has erred in confirming the action of Assessing Officer in making addition of Rs.34,15,725/- on account of alleged unexplained cash deposit in bank account of assessee.*

*2. On the facts and in the circumstances of the case as well as subject on the law, Id. CIT(A) has erred in giving direction to Assessing Officer to reopen the case of*

*assessee for A.Y. 2013-14 by invoking the provisions of section 150(1) of the Act.*

*3. It is therefore prayed that addition made by assessing officer and confirmed by CIT(A) may please be deleted and direction given by CIT(A) may please be quashed.*

*4. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of hearing of the appeal.”*

2. Learned AR submitted that the Id. CIT(A) has erred in confirming the action of the Assessing Officer in making addition of Rs.34,15,725/- on account of alleged unexplained cash deposits in the bank account of the assessee. The Id. AR drew our attention towards pages 23 to 75 of the assessee's paper book and submitted that during the relevant financial period, the assessee sold land to various persons and consideration was received in cash which was included in the cash flow statement available at pages 101 to 103 of assessee's paper book. He also drew our attention to page 101 of the paper book and cash flow from 01.04.2012 to 31.03.2013 and submitted that there was closing cash balance of Rs.30,62,450/- at the end of immediately preceding financial period, which was brought forward as opening cash balance as on 01.04.2013 which clearly explains the source of cash deposit to the bank account of the assessee. Therefore, the addition made by the Assessing Officer and sustained by the Id. CIT(A) may kindly be deleted.

3. Ld. AR submitted that the assessee is a sincere and honest tax payer and there was no intention to evade the tax liability. Therefore, Id. CIT(A) was not correct in directing the Assessing Officer to reopen the case for A.Y. 2013-14 by invoking provisions of section 150(1) of the Act. Even in the assessment order for A.Y. 2013-14, the Assessing Officer has not made any addition on account of cash deposits u/s. 68 of the Act and has accepted the cash flow statement and closing cash balance of Rs.30,62,450/- which was actually brought forward by the assessee during the next financial year. Therefore, entire addition may kindly be deleted.

4. Replying to the above, Id. Sr. DR supported the action of the Assessing Officer and placed reliance on the assessment order. He also drew our attention to page 8 of first appellate order and submitted that the Assessing Officer has made addition u/s. 68 of the Act on account of cash deposits in the bank account and he was very clear in his approach that although total cash deposit was Rs.79,04,282/-, but instead of making addition of whole amount, the Assessing Officer proceeded to calculate the peak amount of the deposit by allowing benefit of withdrawals made in cash.

5. On careful consideration of the rival submissions, I am of the considered view that the Id. AR has not disputed the cash deposits in the bank account and the Assessing Officer, for making addition, has taken aid of principle of peak amount of deposits by allowing benefit of withdrawals made in cash. However, there is no iota of

observations or findings by the Id. CIT(A) to show that the Assessing Officer has granted benefit of opening cash balance in the hands of the assessee. Neither the Assessing Officer nor the Id. CIT(A) has disputed the cash flow statement of the assessee, copy of which is available at page 101 of the assessee's paper book which clearly shows that there was opening cash balance of Rs.30,62,450/- as on 01.04.2013 and closing balance of Rs.22,99,659/-. Cash flow chart also reveals that there was inflow cash of Rs.16,07,909/- and outflow cash was Rs.23,70,702/- leaving the closing cash balance of Rs.22,99,659/-.

6. In my humble understanding, when the cash flow statement reveals opening cash balance as well as closing cash balance in the hands of assessee for F.Y. 2012-13 and 2013-14 pertaining to A.Y. 2014-15, the theory of opening and closing cash balance has to be applied simultaneously. Only opening cash balance cannot be considered for the justification of cash deposits to the bank account of the assessee. However, as I have noted above, the assessee has specifically demonstrated by way of submitting relevant sale deeds that he has received cash amount of Rs.24,45,000/- as sale consideration from various land purchasers and executed 8 registered sale deeds during the financial year 2012-13 and the Assessing Officer has not considered this amount towards cash deposits in the bank account of the assessee. Therefore, in my humble understanding, this amount received in cash against sale

consideration of land to 8 persons, has to be taken into consideration and the explanation of the assessee in this regard is plausible and sustainable one. Therefore, we direct the Assessing Officer to recalculate the disallowance u/s. 68 of the Act by giving credit of Rs.24.45 lacs received by the assessee against sale of land to 8 persons during the immediately previous financial period which also gets support from the amount of opening cash balance in the hands of the assessee which was Rs.30,62,450/- . Accordingly, the appeal of the assessee is partly allowed sustaining the remaining addition of Rs.9,70,725/- (34,15,725 – 24,45,000).

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

Order pronounced in the open court on 05/05/2022.

Sd/-

**(C.M. GARG)**  
**JUDICIAL MEMBER**

Dated: 05/05/2022

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