

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C": NEW DELHI**

**BEFORE  
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 173/Del/2021  
Asstt. Year: 2011-12

Kamlesh, VPO-Palra, Sec-70A, Gurgaon, Haryana 122 101 PAN CQEPK1545E (Appellant)	Vs.	ITO, Ward-2(3) Gurgaon  (Respondent)
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Assessee by:	Shri M.R. Sahu, CA
Department by :	Shri Anuj Garg, Sr. DR
Date of Hearing	06.07.2022
Date of pronouncement	06.07.2022

**ORDER**

**PER ASTHA CHANDRA, JM**

The appeal filed by the assessee is directed against the order dated 06.03.2020 of the Commissioner of Income Tax (Appeals)-2, Gurgaon ("**CIT(A)**") pertaining to the assessment year ("**AY**") 2011- 12.

2. The assessee has raised the following grounds of appeal:
- "1. *Funds received from the sale of agriculture land in rural area are tax exempted under IT Act 1961.*
  2. *Any proceeds from agriculture land sale are not the part of taxable income of an individual.*

3. *There should not be any tax liability on the funds received from the sale of agriculture land in rural area.”*

3. The appeal has been filed late. Application for condonation of delay has been filed. It is stated therein that delay is due to Covid-19 Pandemic and Lock-down situation. The delay is due to reasonable cause. Ld. DR had no objection for condonation of delay. We, therefore, condone the delay and the appeal is taken up for adjudication.

4. Briefly stated, as per NMS Information & individual Transaction Statement on Actionable Information Management System of ITD, downloaded from ASP, the Ld. Assessing Officer (“**AO**”) found that the assessee has made investment of Rs. 1,21,46,000/- in purchase of immovable property registered with Sub-Registrar, Mohindergarh during Financial Year 2010-11 relevant to AY 2011-12. As per the information available with the Ld. AO the assessee did not file any return for the AY 2011-12. Therefore, after obtaining approval from the Pr. Commissioner of Income Tax, Gurugram the Ld. AO issued notice under section 148 of the Income Tax Act, 1961 (“**Act**”) which was duly served. In response to notice under section 148 and under section 142(1), son of the assessee attended and furnished copy of agreement to sale dated 19.04.2010 between Shri Rajender Kumar and M/s. Nexus Infracon Pvt. Ltd. Kotla Mubarkpur, New Delhi for Rs. 2.25 cr. and also furnished copies of two cheques dated 21.04.2010 and 01.07.2010 for Rs. 36,80,860/- and Rs. 1,47,25,390/- respectively.

4.1 The Ld. AO asked the assessee to furnish ITR, computation of income from all sources, para-wise reply of questionnaire and copy of sale deed of land sold vide above agreement and bank statements through which all the transactions were made. There was no compliance.

4.2 Thereafter, the Ld. AO issued show cause notice dated 15.11.2018 requiring the assessee to explain source of investment in property shown at Rs. 1,21,46,000/- vide sale deed dated 30.08.2010 and also why the

purchase value may not be assessed at the value of the property taken at Rs. 1,52,88,750/- by the Registering Authority under section 50C of the Act.

4.3 In the absence of any explanation given by the assessee, the Ld. AO held that the investment in purchase of land was from undisclosed sources and computed the income of the assessee at Rs. 1,57,62,450/- including therein investment and other expenses incurred.

5. Aggrieved, the assessee appealed before the Ld. CIT(A). Since none appeared during appellate proceedings, the Ld. CIT(A) confirmed the assessment, against which the assessee is in appeal before the Tribunal.

6. We have heard the Ld. Representative of the parties and perused the material available in the records. It is submitted by the Ld. AR that during assessment proceedings it was submitted that the funds received from sale of agricultural land is exempt from tax. In response to notice issued by the Ld. AO, the assessee submitted evidence of funds received from sale of land. The Ld. AO demanded sale deed associated with the land sale which was not available then with the assessee. By the time the assessee received sale deed from Gurgaon Court, the Ld. AO had already completed the assessment. The Ld. AR also submitted that notices issued by the Ld. CIT(A) were not served upon the assessee which was the cause of non-compliance before the Ld. CIT(A). The Ld. DR supported the orders of the Ld. AO/CIT(A).

7. On careful consideration of the entire facts and circumstance of the case, we are of the view that the matter is required to be restored to the file of the Ld. CIT(A). The assessee should file additional evidence before the Ld. CIT(A) in accordance with law which he could not file before the Ld. AO during assessment proceedings. Thereafter, the Ld. CIT(A) shall pass order afresh after allowing reasonable opportunity of hearing to the parties. The impugned order of the Ld. CIT(A) is set aside.

8. In the result, the appeal is treated as allowed for statistical purposes.

**Order pronounced in the open court on 6<sup>th</sup> July, 2022 on the conclusion of hearing itself.**

**sd/-**

**sd/-**

**(N.K. BILLAIYA)  
ACCOUNTANT MEMBER**

**(ASTHA CHANDRA)  
JUDICIAL MEMBER**

Dated: 25/08/2022

***Veena***

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	