

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 601/DEL/2020 (A.Y 2016-17)**

Income Tax Officer, Ward : 30 (8) New Delhi.  <b>(APPELLANT)</b>	Vs.	Shri Har Karan Singh, 6/16, Upper Ground Floor, East Patel Nagar, New Delhi – 110 008.  <b>PAN No. CKUPS6650N</b>  <b>(RESPONDENT)</b>
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<b>Assessee by :</b>	<b>N o n e</b>
<b>Department by:</b>	<b>Shri Rajendra Jha, Sr. D. R.;</b>

<b>Date of Hearing</b>	<b>09.11.2022</b>
<b>Date of Pronouncement</b>	<b>15.11.2022</b>

**ORDER**

**PER YOGESH KUMAR U.S, JM**

This appeal is filed by the Department for assessment years 2016-17, against the order of the Id. Commissioner of Income Tax (Appeals)-34, New Delhi [hereinafter referred to CIT (Appeals) dated 28.11.2019.

2. The Department has raised the following substantive grounds of appeal:-

*“1. That, in facts and circumstances of the case, Ld. CIT (A) erred in deleting the addition of Rs.1,50,00,000/- u/s 69A of the Act ignoring the fact that the advance of Rs.1,50,00,000/- received from Sh. Gurpreet Singh Chadha towards purchase of the property was not corroborated as the amount of Rs.1,50,00,000/- was not shown by Sh. Gurpreet Singh Chadha as loans and advances in his ITR for the A.Y. 2016-17.*

*2. That, in facts and circumstances of the case, Ld. CIT (A) ignored the fact that the assessee had failed to furnish any evidence of the return of advance to Sh. Gurpreet Singh Chadha during the assessment proceedings.*

*3. That, in facts and circumstances of the case, Ld. CIT (A) has erred in not giving reasonable opportunity to the Assessing Officer as per the provisions of section 46A(3) to examine the evidence or document or to cross examine the witness produced by the assessee or to produce any evidence or documents or any witness in rebuttal of the additional evidence produced by the assessee.*

*4. That, in facts and circumstances of the case, Ld. CIT (A) has erred in not calling for a remand report before accepting the additional evidence submitted by the assessee during the appellate proceedings.*

*5. That, in facts and circumstances of the case, Ld. CIT (A) has erred in ignoring the fact that during the course of assessment proceedings, the assessee failed to prove the genuineness of source of fund nor provide any confirmation/evidence regarding the receipt of Rs.1,50,00,000/-.”*

3. Brief facts of the case are that, the assessee filed return of declaring income of Rs. 8,33,370/-. The case of the assessee was selected for limited scrutiny under CASS on the following grounds.

*“(i) Whether capital gain/loss on sale of property has been correctly shown in the return of income. (ii) Whether investment and income relating to properties are duly disclosed.”*

The Notice u/s 143 (2) of the Act and also questionnaires u/s 142(1) have been issued. The assessment order came to be passed on 26/12/2018 by making addition of Rs. 1,50,00,000/- which has treated as unexplained investment and added back to the income of the assessee u/s 69 of the Act. Further a sum of Rs. 24,00,000/- has been added to the income of the assessee u/s 69 of the Act on account of unexplained investment, further a sum of Rs. 93,00,000/- has also been added to the income of the assessee by treating the sum as unexplained expenditure and added back to the income of the assessee u/s 69C of the Act.

4. Aggrieved by the assessment order dated 26/12/2018, the assessee has preferred an appeal before the Ld.CIT(A). The Ld.CIT(A) vide order dated 26/11/2019 deleted the addition of Rs. 1,50,00,000/- which was treated as unexplained investment by the Assessing Officer . Further, confirmed the addition of Rs. 24,00,000/- which was treated as unexplained investment by the A.O. and also confirmed the addition of Rs. 93,00,000/- which was treated by the A.O. as unexplained expenditure.

5. Aggrieved by the order of the Ld. CIT(A) dated 28/11/2019, in deleting the addition of Rs. 1,50,00,000/- the Revenue has preferred the present appeal on the grounds mentioned above.

6. The notice issued by the registry of the Tribunal has returned un-served with an endorsement 'door locked'. The notice has also been sent by the Revenue Department as per the directions of the Tribunal which was sent to the mail id available on record and the notice has also been served through affixture by the Inspector and the Revenue has produced the report of the Inspector. In view of the same, we are of the opinion that the assessee is not interested in defending the present appeal. Therefore, we are constrained to decide the appeal on hearing the Ld. DR and perused the material available on record.

7. We have heard the Ld. DR perused the material on record and gave our thoughtful consideration. While deleting the addition of Rs. 1,50,00,000/- made by the A.O. u/s 69A of the Act. The Ld.CIT(A) is given the finding as under:-

*"6.3. I have considered the facts of the case, finding of the AO and submissions of the appellant. During the year under consideration, appellant has received advance of Rs.1,50,00,000/- from Sh. Gurpreet Singh Chaddha as per agreement to sale dated 10.03.2016 wherein entire deal of sale of property was made at Rs.2,50,00,000/- in respect of house on plot no. 165, Cyan Khand, Indirapuram, Ghaziabad. The appellant has filed the confirmation from Sh. Gurpreet Singh Chaddha during the assessment proceedings but could not produce any evidence of return of advance. It is observed by the AO that the amount received as advance from Sh. Gurpreet Singh Chaddha has been utilized by the appellant against purchase of property from Sh. Digvijay Singh Rawat, GPA holder of Sh. Harish Rawat. Since appellant has utilized the amount received from Sh. Gurpreet Singh Chaddha for*

*the purchase of property therefore AO has treated as unexplained investment. During the course of appellate proceedings, appellant has submitted that he has received Rs.1,50,00,000/- from Sh. Gurpreet Singh Chaddha as advance towards sale of property, however the deal between the parties were not finalized and assessee repaid the said advance. The appellant has enclosed the copy of ledger account alongwith repayment statement duly confirmed by Mr. Gurpreet Singh Chaddha. He has also filed the copy of bank statement of Sh. Gurpreet Singh Chaddha and confirmation of repayment of advance. The appellant has also enclosed the copy of ITR and computation of income of Sh. Gurpreet Singh Chaddha in support of his contention. I have gone through the evidences and documents furnished by the appellant in support of his contention that he has received the advance against the sale of property from Sh. Gurpreet Singh Chaddha against agreement to sale dated 10<sup>th</sup> March, 2016. The appellant has received the advance through banking channel and he has also filed the I confirmation from Sh. Gurpreet Singh Chaddha in respect of advance I received from him. The deal was not materialized and appellant has made repayment of the amount in subsequent years and he has filed the confirmation in respect of repayment of advance and copy of bank account of Sh. Gurpreet Singh Chaddha reflecting the amount received by him from the appellant from his bank account and credited the same in the account of Sh. Gurpreet Singh Chaddha. Since appellant has brought sufficient documentary evidences on record in support of advance received from Sh. Gurpreet Singh Chaddha, AO is not justified in treating the same as unexplained investment as appellant has explained the source of making investment and those funds were utilized for the purpose of purchase of property. Considering the above facts, addition made by*

*the AO at **Rs.1,50,00,000/-** is not sustainable and it is hereby **deleted.**”*

8. It is the specific case of the Revenue is that, the Ld.CIT(A) has ignored the fact that the advance of Rs. 1,50,00,000/- received from Gurpreet Singh Chaddha towards purchase of the property was not corroborated as the said amount was not shown by Gurpreet Singh Chaddha as loans and advances in his ITR's for Assessment Year 2016-17. Further submitted that, the assessee had failed to furnish any document of the return of the advance to Gurpreet Singh Chaddha during the assessment proceedings, besides the same, the Ld.CIT(A) has deleted the addition.

9. It is found that the assessee has produced certain additional documents such as ledger account along with repayment statement duly confirmed by Gurpreet Singh Chaddha and the copy of the bank statement of Gurpreet Singh Chaddha and confirmation of re payment of the advance. The assessee has also enclosed the copy of the ITR and computation of income of Gurpreet Singh Chaddha before the CIT(A). Admittedly, those documents have not been considered by the Ld. A.O., since the assessee has not made available those documents to the A.O. in support of his contention, the A.O. has made addition and passed assessment order based on the material available on record. Since, the assessee has not made available all the documents in support of his contention and the A.O. had no opportunity to test the veracity, genuineness of those documents, we deem it fit to remand the matter to the file of Ld. A.O. with a direction to the assessee to produce all material evidences in support of his contentions that the assessee had repaid the said amount which was received Gurpreet Singh Chaddha. Further we direct the A.O. to consider the same and pass appropriate order in

accordance with law after hearing the Assessee. Accordingly, we allow Ground No. 2 of the Revenue's Appeal.

10. In result, Appeal filed by the Revenue is partly allowed for statistical purpose.

Order pronounced in the open court on : **15<sup>th</sup> NOVEMBER 2022.**

**Sd/-  
( SHAMIM YAHYA )  
ACCOUNTANT MEMBER**

**Sd/-  
(YOGESH KUMAR U.S.)  
JUDICIAL MEMBER**

Dated : 15/11/2022

*\*R.N\**

Copy forwarded to :

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI