

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No. 1592/Del/2019
[Assessment Year: 2013-14]**

Jitender Singh Kataria, H. No. 173A, Village- Bassi, Gurgaon-122001.	<u>Vs</u>	Income-tax Officer, Ward-2(1), New Delhi.
PAN- ASJPK6005A		
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Sh. Govind Singhal, Sr. DR	
Date of hearing	10.01.2023	
Date of pronouncement	10.01.2023	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-1, Gurgaon, dated 19.09.2017, pertaining to the assessment year 2013-14. The assessee has raised following grounds of appeal:

“1. That the Ld. CIT (Appeal) has erred in law as well as fact of the case

by dismissing the appeal.

2. That no notice was served at the residential address of the assessee where as the Authorised Representative of the assessee kept on misguiding the assessee that the case is being pursued.

3. That the addition made by Ld. AO of Rs. 68,40,000/-as undisclosed Income is not tenable as the assessee had sold agricultural Land which was well explained to the AO.

4. That the Assessee reserves the right to add , amend or delete any ground of appeal at the time of hearing.

2. Briefly stated facts are that in this case the assessee filed its return of income declaring income of Rs. 2,50,760/- and agricultural income of Rs. 1,30,000/-. The case was selected for scrutiny assessment. The Assessing Officer, during the course of assessment, sought explanation about the source of cash deposited in the bank account of the assessee. However, the explanation of the assessee before the Assessing Officer was that the assessee had sold agricultural land and a copy of sale-deed was also furnished by the assessee. The Assessing Officer did not accept the contention of the assessee and computed the capital gain at Rs. 25,33,334/-. He further made addition of Rs. 60,80,000/-, the amount which was deposited in the bank account of the assessee. Hence the Assessing Officer assessed total taxable income at Rs. 71,30,760/-. Aggrieved against this, the assessee preferred appeal before the learned CIT(Appeals), who dismissed the appeal on the ground of

limitation without advertng to the merit of the case. Now the assessee is in appeal before this Tribunal.

3. No one attended the hearing on behalf of the assessee. It is seen that various adjournments have been granted to the assessee, however, no one has attended the proceedings. Therefore, the appeal is taken up for hearing in the absence of the assessee.

4. Learned Sr. DR supported the orders of the authorities below.

5. We have heard the learned DR and perused the material available on record. We find that the Assessing Officer has recorded the fact that the assessee had explained the source of cash deposit as the sale consideration of the agricultural land, which he had sold. However, the contention was rejected on the ground that requisite information was not filed. Further, the Assessing Officer computed capital gain of Rs. 25,33,334/- and also made addition of the cash deposited in the bank account of Rs. 68,80,000/-. However, the Assessing Officer has not stated at what amount the entire income has been assessed. The learned CIT(Appeals) without advertng on merit rejected the appeal on the ground of limitation. Therefore, considering the totality of the facts we are of the considered view that the learned CIT(Appeals) ought to have decided the issue on merit. We, therefore, considering the material available on record condone the delay and restore the

grounds of appeal to the file of the learned CIT(Appeals), to be decided on merit.

We, therefore, direct the learned CIT(Appeals) to decide the issue on merit. The

grounds raised in this appeal are allowed for statistical purposes.

6. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court during the course of hearing on 10.01.2023.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER
MP

Copy forwarded to:

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

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI