

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

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No. 2885/Del/2022
Assessment Year: 2012-23

Puran Sharma S/o Shri Nathi Ram, H.No.11, Village: Malerna Tehsil Ballabgarh, Faridabad (Haryana)	Vs.	ITO, Ward-2(1), Faridabad
PAN :CYIPS9926H		
(Appellant)		(Respondent)

Appellant by	Shri Jitender Wadhwa, CA
Respondent by	Shri Anil Kumar Sharma, Sr. DR

Date of hearing	08.02.2023
Date of pronouncement	17.02.2023

ORDER

This is an appeal by the assessee against order dated 31.08.2022 passed by National Faceless Appeal Centre (NFAC), Delhi for the assessment year 2012-13.

2. The dispute in the present appeal is confined to addition of Rs.15,23,438 under Section 69 of the Income-Tax Act,1961.

3. Briefly, the facts are, the assessee is a resident individual. Based on information received indicating that in the year under consideration, the assessee has deposited cash amounting to Rs.50,40,000 in his savings bank account maintained with Oriental Bank of Commerce, the Assessing Officer reopened the assessment under Section 147 of the Act.

4. In course of assessment proceedings, the Assessing Officer called upon the assessee to explain the source of cash deposit.

5. In response to the query raised by the Assessing Officer, the assessee submitted that the cash deposits were out of withdrawals from bank and receipts from sale of property. After perusing the details furnished by the assessee, the Assessing Officer noticed that assessee had cash withdrawals from bank for an amount of Rs.62,55,000 and receipts from sale of property of Rs.11,61,562, both, aggregating to Rs.74,16,562. Whereas, he observed, the assessee had deposited cash amounting to Rs.50,40,000 in the bank account and made investment of Rs.36,00,000 in purchase of property, both, aggregating to Rs.86,40,000. Further, he observed, out of the cash withdrawal, the assessee must have expended some amount towards

household expenses and investment. Accordingly, he treated an amount of Rs.15,23,438 as income from undisclosed sources and added back under Section 69 of the Act. Though, the assessee contested the aforesaid addition before learned Commissioner (Appeals), however, he was unsuccessful.

6. Before me, learned counsel appearing for the assessee submitted, the actual cash withdrawal made by the assessee were to the tune of Rs.78,35,000 and not Rs.62,55,000 as considered by the Assessing Officer. He submitted, withdrawals of Rs.8,00,000 and Rs.7,80,000 made on 10.08.2011 and 24.08.2011, respectively, have been omitted by the Assessing Officer.

7. In this context, he drew my attention to the statement of withdrawals and deposits in the bank account.

8. Learned Departmental Representative relied upon the observations of Assessing Officer and learned Commissioner (Appeals).

9. I have considered rival submissions and perused the material available on record.

10. From the statement of deposit and withdrawals in the bank account, it is noticed that the total withdrawals made by the assessee during the year was to the tune of Rs.78,35,000. From the list of cash withdrawals mentioned in the assessment order, it is observed, the Assessing Officer has omitted the cash withdrawals made on 10.08.2011 and 24.08.2011 aggregating to Rs.15,80,000. In case, the aforesaid two cash withdrawals are considered, the difference between deposits in the bank account and investment made in new property and availability of cash with the assessee would not be there. Therefore, in my view, the addition of Rs.15,23,438 would not survive. Accordingly, I direct the Assessing Officer to delete the addition.

11. In the result, the appeal is allowed.

Order pronounced in the open court on 17th February, 2023.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 17th February, 2023.

Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi