

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “SMC”: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No. 101/DEL/2022**  
**[Assessment Year: 2012-13]**

Sumit Grewal, 3, Naek Pana, near Holy Chowk, Bijwasan Village, Delhi-110061  PAN- AVBPG2280Q	<u>Vs</u>	Income-tax Officer, Ward-68(1), New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>		<b>Ms. Hasneeta Matta, CA</b>
<b>Department represented by</b>		<b>Shri Om Parkash</b>
<b>Date of hearing</b>		<b>22.02.2023</b>
<b>Date of pronouncement</b>		<b>07.03.2023</b>

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Akppeal Centre (NFAC), Delhi, dated 29.11.2021, pertaining to the assessment year 2012-13. The assessee has raised following grounds of appeal:

- “1. That on facts and in circumstances of the case, the order passed by the Ld. CIT(A), NFAC is bad both in eyes of law and facts.*
- 2. That on facts and in circumstances of the case the Ld. CIT(A), NFAC has erred in confirming an addition of Rs. 15,38,200/- on account of cash deposit in bank account under section 69A of the Income Tax Act, 1961 without giving g[]) opportunity of being heard.*

3. *That on facts and in circumstances of the case the Ld. CIT(A), NFAC has erred in confirming an addition of Rs. 15,38,200/- alleging that the appellant has submitted the new evidences without appreciating the fact that these facts are already available on records of AO.*

4. *That on facts and in circumstances of the case the Ld. CIT(A), NFAC has erred in confirming an addition of Rs. 15,38,200/- to the total income of the appellant against the principal of natural justice as all the relevant material was available with the AO as well as Ld. CIT(A).*

5. *That the appellant take liberty to alter, amend, vary any Ground of Appeal before or at the time of hearing.”*

2. Apart from the above grounds, the assessee has also filed an application for admission of additional ground. The additional ground raised by the assessee is reproduced as under:

*“5. That the Reassessment proceedings initiated by the Ld. AO for A.Y. 2012-13 are without jurisdiction and thus liable to be set aside:*

*5.1 The Ld. AO erred in initiating re-assessment proceedings without obtaining the proper approval of the Prescribed statutory authority under the Income Tax Act and issuing notice u/s 148 in a mechanical manner.*

*5.2 The Ld. AO erred in initiating re-assessment proceedings without appreciating facts on record and issuing notice u/s 148 without proper application of mind.”*

3. Facts giving rise to the present appeal are that in this case the Assessing Officer was having an information regarding cash deposit by the assessee in his bank account. Therefore, the Assessing Officer reopened the assessment and issued the requisite notice u/s 148 of the Income-tax Act, 1961, hereinafter referred to as the “Act”. There was no effective representation on behalf of the assessee in

response to the statutory notice. However, in a reply filed by the assessee it was stated that Rs. 9,65,200/- was received in cash from Ashok Kumar Grewal and Rs. 5,73,000/- was received in cash from Yash Pal Singh. However, The Assessing Officer did not accept the claim of the assessee and made addition of Rs. 15,38,200/-. Thus assessed income at Rs. 17,95,900/- against the returned income of Rs. 2,57,700/-. Aggrieved against this the assessee preferred appeal before the learned CIT(Appeals) who also sustained the finding of the assessee and dismissed the grounds of appeal.

4. Apropos to the additional ground of appeal, learned AR of the assessee argued that the reassessment made by the AO is without any authority of law and without considering the material available on record. He submitted that there is no requisite approval.

5. On the contrary, learned DR opposed the submissions and submitted that the requisite approval was obtained. He drew my attention to the letter dated 2.1.2023. He submitted that looking to the letter it can very well be inferred that requisite approval was granted.

6. I have heard rival submissions and perused the material available on record. The Revenue has brought on record the fact that the requisite approval was granted. Looking to the facts and submissions of the Revenue, I am of the considered view that there is no infirmity into the order of the authorities below for

reopening of the assessment. Hence the additional ground raised by the assessee is dismissed.

7. Now coming to the ground nos. 2,3 & 4, which are effectively against the confirmation of addition of Rs. 15,38,200/-, learned counsel for the assessee submitted that it was submitted before the authorities below that money was deposited out of the amount received from two persons, namely, Shri Ashok Kumar Grewal and Shri Yash Pal Singh. Learned counsel took me through the gift deeds and also other evidences supporting the transaction of gift. Learned counsel also submitted that the donors were having sufficient money and the source of gift was also furnished. Learned counsel has taken me through the bank statement of the assessee with Axis Bank.

8. On the other hand, learned DR opposed the submissions and supported the orders of the authorities below.

9. I have heard rival submissions and perused the material available on record. I find that the assessee had given similar explanation before the assessing authority. However, the authorities below did not accept the explanation offered by the assessee. It is seen from the assessment order that the AO without rebutting the explanation as to how the explanation offered by the assessee was not correct, made the addition. Moreover, assessee had filed bank statement of Shri Ashok Kumar Grewal (enclosed at pages 27 to 31 of the paper book), to buttress the

contention that the amount was paid out of the withdrawals. From the bank statement it is clear that there are periodical withdrawals from the account of Shri Ashok Kumar Grewal. Similarly, pass book of P.F. A/c of Shri Yash Pal Singh is also enclosed. Both the authorities below have failed to comment on these material evidence and purely based their finding on suspicion which is not justified. I, therefore, looking to the evidences placed before me direct the Assessing Officer to delete the additions. Ground nos. 2,3 & 4 raised by the assessee are allowed.

10. Ground no. 1 & 5 are general in nature, require no separate adjudication.

11. Appeal of the assessee is partly allowed.

Order pronounced in open court on 7<sup>th</sup> March, 2023.

**Sd/-  
(KUL BHARAT)  
JUDICIAL MEMBER**

**\*MP\***

Copy forwarded to:

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

**ASSISTANT REGISTRAR  
ITAT, NEW DELHI**