

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER

ITA No.1366/Del/2022  
Assessment Year: 2012-13

Kishan Singh,  
S/o Mehar Chand,  
Mujedi Road, Near Hanuman Mandir,  
Village Chandawali Tehsil,  
Ballabhgargh,  
Faridabad – 121004,  
Haryana.

Vs. ITO,  
Ward-1(4),  
Faridabad.

PAN: BMIPS6735H

(Appellant)

(Respondent)

Assessee by	:	Shri Sanjay Tiwari, CA
Revenue by	:	Shri Om Prakash, Sr. DR
Date of Hearing	:	14.12.2022
Date of Pronouncement	:	07.03.2023

ORDER

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi, relating to Assessment Year 2012-13.

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

*"1. That The Impugned order is passed EX PARTY , U/S144 OF THE Income Tax Act. without proper service of notice ,is a order in Bad in Law and anfractuous in nature and should be set aside*

*2. This Appeal is arise out of the order passed under Section 250, made by Honorable Commissioner of Appeal Order No. ITBA/NFAC/S/250/2021 - 22/1040771743(1) to the Assessment Year 2012-13 to the relevant Financial Year 2011-12 of Mr. Kishan Singh Pan No. BMIPS6735H.*

*WHERE AS*

*The appellant is by profession a farmer family , (since century ), and his agricultural land at Vill Chandawali, Ballabgarh Faridabad-121004 Haryana, India .the only source for his bread earning is acquired by District revenue officer, Faridabad Haryana, and an enhanced compensation in A.Y THE 2012-13, Amounting to Rs 50,63,672.00 was received by the appellant, out of which Appellant withdraw Rs.36,45,000.00 between period of 22/09/2011 to 31/10/2011 and utilized the Amount of Rs. 18,45,000 and balance amount of Rs. 18,00,000.00 is redeposit in bank by the appellant 12/11/2011.*

*Where as the redeposit amount Rs.18,00,000 was wrongly added by the Ld. AO as income of the assessee u/s 69 of the IT ACT.1961 THOU the source of enhanced compensation received available in records , details of withdrawal available in record ,the Ld .CIT (A) failed to appreciated the fact and records submitted, wrongly confirm the addition made By Ld. A.O. of withdrawal amount Rs. 18,00,000.00 redeposit, which is totally illegal and should be deleted. "*

2. The Id. Counsel of the assessee submitted that the assessee is a farmer by profession and owns agricultural land at village Chandawali, Ballabgarh, Faridabad. The Id. AR further submitted that the only source of his livelihood, i.e., agricultural land has been acquired by the District Revenue Officer and the assessee received enhanced compensation amounting to Rs.50,63,672/- during AY 2012-13 out of which the assessee withdrew Rs.36,45,000/- from the period 22.09.2011 to 31.10.2011 and utilized the amount of Rs.18,45,000/- and the balance amount of Rs.18 lakh was re-deposited to the bank account on 12.11.2011. The Id. Counsel submitted that the AO has made addition u/s 68 of the Act on the re-deposited an amount of Rs.18 lakh which is totally baseless, illegal and bad in law. Therefore, the same may kindly be deleted.

3. Replying to the above, the Id. Sr. DR supported the orders of the authorities below.

4. On careful consideration of the above rival submissions, first of all, I note some factual position enumerated in the documents and written submissions of the assessee wherein it is clear that the assessee has withdrew cash of Rs.36,45,000/- in six installments during the period of 22.09.2011 to 31.10.2011 and deposited an amount of Rs.18 lakh to the same bank account on 12.11.2011. From the orders of the authorities below, I note that the AO has passed an *ex parte* order u/s 144 r.w.s 147 of the Act. From careful reading of the first appellate order, I further observe that the assessee, in his written submissions before the Id.CIT(A), categorically submitted that the assessee withdrew Rs.30 lakh on 26.09.2011 and the impugned amount of Rs. 18 lakh was re-deposited on 12.11.2011 out of the amounts withdrawn by the assessee. From the statement of facts and other documentary evidence available on record, it reveals that the assessee has withdrawn Rs.36,45,000/- during the period 22.09.2011 to 31.10.2011 which includes the amount of Rs.30 lakh withdrawn by the assessee on 26.09.2011. Therefore, the assessee has taken a consistent stand before the Id.CIT(A) that the amount deposited to his bank account is nothing, but, the unutilized part of the amount which was withdrawn from the bank. The Id.CIT(A), in para 5.3, noted that the assessee has filed copies of bank statements in respect of Punjab National Bank, but, he dismissed the same at the threshold by alleging that the assessee failed to explain with evidence the accounted nature of cash deposit.

5. In view of the foregoing discussion, I reach to a logical conclusion that the assessee has successfully demonstrated that the amount of Rs.18 lakh deposited to his bank account on 12.11.2011 was his unutilized part of the amount withdrawn by him from his bank account wherein the amount of enhanced compensation was deposited. In view such a factual position, the source of cash deposit to the bank

account of the assessee is self-speaking and sustainable. Therefore, the orders of the authorities below are set aside and the AO is directed to delete the addition. Accordingly, the grounds of the assessee are allowed.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 07.03.2023.

Sd/-

(C.M. GARG)  
JUDICIAL MEMBER

Dated: 07<sup>th</sup> March, 2023.

dk

Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi