

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
BEFORE Shri C.M. Garg, Judicial Member
AND
Dr. B. R. R. Kumar, Accountant Member**

ITA No. 779/Del/2022
(Assessment Year: 2017-18)

Kuldeep S/o. 978/11, VPO Pirthala, Tehsil-Tohana, Distt. Fatehabad, Haryana, India (Appellant) PAN:ELUPK1367K	Vs. Pr. CIT, Rohtak (Haryana)
	(Respondent)

Assessee by :	Shri Prem Rajpal, Adv Shri Pulak Rajpal, Adv
Revenue by:	Shri Anuj Garg, Sr. DR
Date of Hearing	15/02/2023
Date of pronouncement	12/05/2023

ORDER

PER C. M. GARG, J. M.:

1. This is an appeal filed by the assessee against the order of the Id Pr. CIT, Rohtak dated 24.03.2022 for AY 2017-18.
2. The Id counsel of the assessee submitted that the Id Pr. CIT has passed revisionary order u/s 263 of the Income Tax Act, 1961 proposing a redoing of assessment merely because certain material connected with the issue in assessment order was not on record and was, in the opinion of the PCIT necessary or proper enquiry / verification has seemingly not been made. Ld AR submitted that said findings of the Id PCIT are not tenable and sustainable under facts and circumstances of the case as the AO has passed order u/s 143(3) of the Act on 24.09.2019 and taken a view on the issue of cash deposit to the joint Bank Account of the assessee jointly held with father of assessee Shri Richpal Singh. The Id AR submitted that Id PCIT was not

correct in holding that the AO has passed assessment order in a very casual manner without due diligence and without conducting worthwhile enquiry and AO has failed to make enquiry in respect of cash deposits in the bank account. The Id AR submitted that the Id PCIT has passed revisionary order without affording due opportunity of hearing to the assessee and thus, he was not correct and justified in holding assessment order as erroneous and prejudicial to the interest of revenue without considering the written submission/ reply filed by the assessee and affidavit of father of the assessee Sh. Richpal Singh, who was also a joint account holder, filed before the Ld. Pr. CIT explaining the source of cash deposits to his bank account which was also explained before AO during the assessment proceedings. The Id AR also submitted that on conclusion of assessment proceedings dated 11.12.2019 the AO wrote a letter to the AO of Shri Richpal Singh enclosing his affidavit owing cash deposit and requested him to take appropriate action, which shows that the AO of assessee properly examined the issue and on termination of assessment proceedings he informed the AO of Sh. Richpal Singh also. Therefore, the assessment order cannot be alleged as erroneous and prejudicial to the interest of revenue. The Id AR submitted that the impugned revisionary order may kindly be set aside by restoring the assessment order.

3. Replying to the above the Id CIT DR strongly supported the revisionary order and submitted that the Id PCIT has rightly held that the AO has failed to examine the source of cash deposit made by the assessee in SBN notes during the demonetization period. The Id CIT DR submitted that the AO noticed that the assessee was the first account holder of the joint account with his father and he himself shown the said bank account in his ITR that the cash deposit pertains to him. The Id CIT DR submitted that the assessee filed an affidavit of his father Shri Richpal Singh that cash deposit amounting to Rs. 20.50 lakhs pertains to him (father) which is a self-serving document and

should not have been accepted by the AO therefore, the Id PCIT was right in holding the assessment order as erroneous and prejudicial to the interest of revenue being passed without proper and adequate enquiry on the issue of cash deposits during the demonetization period.

4. On careful consideration of the above submission, first of all, from the assessment order dated 11.12.2019 we are unable to see any examination of the issue of cash deposit of the AO. Therefore, the AO has made an addition of Rs. 9,75,000/- on account of agricultural income treating the same as income from other sources. From the copy of the reply filed by the assessee before the AO available at page 1, 2 and 17 of the assessee's paper book it is revealed that the AO issued notice to the assessee seeking explanation regarding claim of agricultural income and also raised enquiry about cash deposit of Rs. 20.50 lakhs to the joint bank account of the assessee. The assessee filed affidavit of his father Shri Richpal Singh, wherein, he stated that the cash amount deposited to the bank account was deposited by him, which is available at the assessee's paper book. The copy of the J Form available at page 6 to 9 of assessee's paper book revealed that the father of assessee Shri Richpal was owing 23 acre of agricultural land. The assessee has relied on the various judgments.

5. The AR has drawn our attention towards letter of ITO, Ward Fatehabad to ITO, Ward-2, Fatehabad informing about the affidavit of father of assessee Shri Richapal Singh and it also reveals that on conclusion of assessment proceedings and passing assessment order dated 11.12.2019, the AO immediately after framing the assessment order vide letter dated 06.01.2020 informed the AO of father of assessee Shri Richapal about deposits of Rs. 20.50 lakhs to the joint bank account of assessee and his father and affidavit of his father was also send to the AO concerned for necessary action. This promptness of AO clearly reveals that the AO kept eyes open on the entire facts

and circumstances of the case and on receipt of explanation of assessee that the money was deposited by his father, the AO of the assessee promptly informed the AO of Shri Richpal Singh enclosing the copy of affidavit of Shri Richpal Singh requesting to take proper action in this regard. Therefore, the AO has not only made appropriate enquiry on the issue of cash deposits but after drawing conclusion that the money was not deposited by the assessee and actually it was deposited by the father of the assessee took appropriate view and also informed that the AO of Shri Richpal to take necessary action.

6. In such a situation, the assessment order cannot be alleged as being passed without adequate and sufficient enquiry on the issue of cash deposits to the joint bank account held by the assessee along with his father Shri Richpal Singh. We clearly note that the AO of the assessee's father receiving the reply of assessee supported by affidavit of his father took cognizance of the fact that the joint account holder i.e. father of assessee has categorically stated in his affidavit that the amount of Rs. 20.50 lakhs deposited to the Joint bank account with the assessee has been deposited by him. The AO after receiving and taking on record said reply although accepted the explanation of the assessee that the cash amount was not deposited by him but at the same time immediately after conclusion of assessment proceedings on 11.12.2019 he promptly wrote a letter to AO of Shri Richpal Singh vide letter dated 06.01.2020 informing him about the affidavit of Shri Richpal Singh and to take remedial action in this regard. Therefore, in view of the above, we are compelled to hold that the Id PCIT was not correct and justified in alleging the assessment order as erroneous and prejudicial to the interest of revenue on account as inadequate and insufficient enquiry. Therefore, impugned revisionary order passed u/s 263 of the Act cannot be held as sustainable and thus, we quash the same. Consequently, the assessment order dated 11.12.2019 for AY 2017-18 is restored.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 12/05/2023.

Sd/-

(B. R. R. Kumar)
ACCOUNTANT MEMBER

-Sd/-

(C. M. GARG)
JUDICIAL MEMBER

Dated: 12/05/2023
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi