

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

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
DR. B.R.R.KUMAR, ACCOUNTANT MEMBER**

**ITA No.2805/Del/2022
[Assessment Year : 2012-13]**

Rura Ram Birok, House No.1355, Birok Sadan, Sector-16-17, Hisar, Haryana-125001. PAN-ALBPB3465E	vs	ITO, Ward-4, Hisar.
APPELLANT		RESPONDENT
Appellant by		Shri Kuldip Khera, CA
Respondent by		Shri Om Parkash, Sr.DR
Date of Hearing		22.06.2023
Date of Pronouncement		27.06.2023

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2012-13 is directed against the order of Ld. CIT(A), National faceless Appeal Centre (“NFAC”), Delhi dated 27.09.2022.

2. The assessee has raised following ground of appeal:-

1. *“That the order passed by the Learned AO and confirmed by the Honorable CIT (A) is bad in law and against the facts placed on the file.*
2. *That the Learned AO erred in not considering the sale proceeds of House of Rs 29,00,000.00 out of which Rs 12,00,000.00 were received by cheque and Rs 17,00,000.00 was received in cash on 02.02.2011. The House was sold through GPA. The Honorable CIT(A) also erred in confirming the addition for want of sale deed. The learned AO and Honorable CIT(A) has erred in law in not treating the sale of house through GPA, which is duly registered with the Registration Authority, Hisar.*

3. *That the Learned AO and Honorable CIT (A) also erred in not considering the fund flow without pointing out any mistake in the fund flow. The Honorable CIT(A) erred in not considering the cash withdrawn from Punjab National Bank saving bank account number 1451000100181523 in the joint name of Sh. R.R. Birok & Smt. Nanki Devi. After depositing the cheque of Rs. 12,00,000.00, the assessee has withdrawn Rs. 11,63,000.00 from his PNB saving account and has deposited Rs. 4,94,500.00 in this account.*
4. *That the Honorable CIT (A) erred in not accepting the affidavit of Sh Mukand Lal S/o Sh Diwan Chand in whose favor GPA was also given by the assessee wife. He further erred in not considering the other supporting documents to prove the genuineness of sale of house.*
5. *The assessee crave to add, alter, amend any of the grounds of appeal before the appeal is heard or finally disposed off.”*

3. Facts giving rise to the present appeal are that the assessee has filed return of income declaring an income of INR 1,83,670/- on 30.03.2013. As per AIR information, the assessee has deposited cash of INR 2,187,000/- in his saving bank account maintained with ICICI Bank Ltd. The assessee could not explain the source of the cash deposits made by him therefore, proceedings u/s 147 of the Income Tax Act, 1961 (“the Act”) were initiated against the assessee.

4. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee.

5. Aggrieved against the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

6. At the outset, Ld. Counsel for the assessee submitted that the case of the assessee was re-opened on the basis of cash deposited in the bank account and

adequate opportunity was not given to the assessee by the Assessing Authority. He further submitted that the authorities below failed to appreciate the fact that the bank account was jointly held with his wife and immovable property was sold by his wife. The sale consideration was deposited in the joint account of the assessee. He further reiterated the submissions as made in the written submissions.

7. On the other hand, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below.

8. We have heard Ld. Authorized Representatives of the parties and perused the material available on record and gone through the orders of the authorities below. Considering the facts that before the lower authorities, the assessee had furnished some evidences related to the sale of immovable property by the wife of the assessee vis-a-vis the bank account statement. Therefore, considering the totality of the facts, we hereby set aside the impugned order and restore the issue to the file of Jurisdictional AO to verify the correctness of the claim of the assessee that the money was deposited out of the sale consideration received on sale of immovable property by the wife of the assessee and also the account was held jointly by the assessee and his wife. Grounds raised by the assessee are thus, allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 27th June, 2023.

Sd/-

**(DR.B.R.R.KUMAR)
ACCOUNTANT MEMBER**

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI