

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'G' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.414/Del./2019
(ASSESSMENT YEAR : 2009-10)**

Sandeep,
S/o Shri Jagdish,
VPO Narayana, Tehsil Samalkha,
Panipat – 132 103 (Haryana).

vs.

ITO, Ward 4,
Panipat.

(PAN : DBMPS7397A)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri J.B. Sharma, Advocate
REVENUE BY : Ms. Kajal Singh, Sr. DR

Date of Hearing : 21.06.2023
Date of Order : 12.07.2023

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal filed by the assessee is directed against the order of Id.
CIT (Appeals), Karnal dated 20.11.2018 pertaining to Assessment Year
2009-10.

2. The grounds of appeal taken by the assessee read as under :-

“1. That on the facts and circumstances of the case, notice issued u/s
148 of I T Act, 1961 is without jurisdiction, without application of mind
and against the natural justice.

2. That on the facts and circumstances of the case the Id CIT(A), has
erred in confirming the order of the Id AO making the addition of
Rs.9164155/- in the income of appellant without going into the facts of the

case whereas the appellant produced the copies of sales deed of Ag land of the same day on which the amount was deposited in bank ale of appellant.

3. That on the facts and circumstances of the case, both the lower authorities has failed to take notice of the opening of bank account on dt 28-05-2008 i.e. date of sales of Ag land which was regd on dt 30-05-2008. The huge amount of Rs.8600000/- was deposited into bank on dt 30-05-2008, the date of registry of Ag land sold by the assessee and his family members.

4. That on the facts and circumstances of the case, both the lower authorities Have erred in assessing/confirming the capital receipts (sales consideration of Ag land of family of appellant) worth Rs.9164155/- as income of appellant which is against the facts and law.”

3. Brief facts of the case are that assessment in this case was reopened on information that assessee had deposited cash amounting to Rs.99,01,000/- in his saving bank account. After examination of the assessee and his response, the Assessing Officer made the following conclusion :-

“The above narrated facts show that the assessee has failed to furnish the source of the cash amount of Rs.91,26,875/- deposited by him in S.B. Account during the F.Y. 2008-09. Further interest income of Rs.37,280/- credited by the bank in assessee's account was also not offered for taxation purpose. Therefore, addition of Rs.91,64,155/- is made to the taxable income of the assessee by treating the same as his income from undisclosed sources.”

4. Assessee appealed against the same before the Id. CIT (A). Ld. CIT (A) in his order upheld the challenge of reopening by observing as under :-

“ It is seen that the assessment was originally completed u/s 144/147 of the IT Act, 1961 after being reopened on account of information received regarding cash deposits of Rs.99,01,000/- in the assessee's saving bank account during the relevant assessment year. The assessee had not filed any return of income for the period under consideration. I do not find the act of reopening flawed as it follows the dictum laid down by the Hon'ble Supreme Court in Raymond Woolen Mills Ltd. Vs. ITO 236 ITR 34 and CIT Vs. Rajesh Jhaveri Stock Brokers (P) Ltd. 291 ITR 500 that in

determining whether the commencement of reassessment proceedings are valid, it is only to be seen that there was prima facie some material on the basis of which the Department could reopen the case. The sufficiency/correctness of the material is not a thing to be considered at that stage. The A.O. has squarely applied his mind to the information received and arrived at a logical satisfaction regarding escapement of income. Moreover, the Addl. CIT vide her letter dated 10/11.10.2018 while forwarding the A.O.'s report has also mentioned that before initiating proceedings u/s 147, the A.O. had asked the assessee to furnish a copy of his PAN card and that if he was not assessable to tax or his income was below the taxable limit, to give details of his transactions which was not done.

In view of the discussion above, I find no flaw in the reopening of the case.”

5. Against this order, assessee has filed an appeal before us. No specific argument has been taken with regard to reopening. In our consideration opinion, Id. CIT (A) has taken correct view of the matter and challenge to the reopening has been rightly rejected.

6. As regards merits of the case, before the Id. CIT (A), assessee has submitted his submissions and filed additional evidence under Rule 46A of the Income-tax Rules, 1962. The Id. CIT (A) asked for the remand report from the AO and reproduced the same in his order. Then he further reproduced the counter-submissions of the assessee and laconically held that these are vague and general and that there are various judicial pronouncements which stated that assessee has to discharge his onus in explaining the source of money received by him and he proceeded to confirm the AO's order.

7. Against this order, assessee is in appeal before us. We have heard both the parties and perused the records.

8. Assessee has submitted following before us being source of cash deposit :-

BEFORE HON'BLE INCOME TAX APPELLATE TRIBUNAL, BENCH "G" DELHI

SANDEEP S/O SH JAGDISH, DISTT. PANIPAT, APPELLANT

V/S

ASSESSING OFFICER, WARD-4, PANIPAT RESPONDENT

Sub: ITA No 414/ Del/2019 dt 21-01-2019 of A Y 2009-10

R/Your Honours,

The appellant hereby submits the detail of date wise summary of Ag land sold by the appellant and his family members as under:-

A) DETAIL OF CASH DEPOSITED INTO BANK

<u>DATE</u>	<u>AMOUNT</u>	<u>SOURCE</u>
28-05-2008	1000.00	From cash in hand-a/c opened
28-05-2008	610000.00	Advance from Ag land sold/regd 30-05-08
30-05-2008	8600000.00	Sales consideration of Ag land DT 30-05-08
15-10-2008	690000.00	withdrawals from bank Rs 37.00 lakh 09-08-08
TOTAL	<u>9901000.00</u>	

B) DETAIL OF AG LAND SOLD

<u>DATE</u>	<u>NAME</u>		<u>MARKET VALUE</u>	<u>REGD VALUE</u>
30-05-2008	SANDEEP (ASSESE)	8K-0M	2303000.00	440000.00
"	SANDEEP AND SATPAL	22K-11M	6491000.00	1240250.00
"	JAGDISH (F/O ASSESSE)	2K-16M	806000.00	154000.00
	TOTAL	<u>32K-27M</u>	<u>9600000.00</u>	<u>1834000.00</u>

C) DETAIL OF AMOUNT/CASH RECEIVED:

	<u>Amount</u>
28-05-2008 Advance	600000.00
30-05-2008 Balance at the time of registry	90,00,000.00
Total	<u>96,00,000.00</u>

9. Upon careful consideration of records and having heard both the parties, we find that Id. CIT (A) has passed the order in a very non-speaking manner. He has reproduced the remand report of the AO and assessee's reply. Without dealing with them, he has concluded that the order of AO needs to be confirmed. In our considered opinion, interest of justice would be served if the matter is remanded to AO. AO shall consider the matter afresh after considering the submissions of the assessee and additional evidences being produced and thereafter pass an order as per law. Needless to add, assessee should be provided an opportunity of being heard.

10. In the result, this appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on this 12th day of July, 2023.

**Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 12th day of July, 2023
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A), Karnal.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**