

IN THE INCOME TAX APPELLATE TRIBUNAL  
NAGPUR BENCH, NAGPUR – VIRTUAL COURT

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.408/NAG/2013  
निर्धारण वर्ष / Assessment Year : 2008-09

Vikesh Chaturbhuj Agrawal, 23, Shradha, Middle Ring Road, Wardhmannagar, Nagpur- 440008. PAN : ABJPA9338H	Vs.	ITO, Ward-4(1), Nagpur.
Appellant		Respondent

Assessee by : Shri Nilesh Sindhwani  
Revenue by : Smt. Rashmi Mathur

Date of hearing : 18.07.2023  
Date of pronouncement : 04.08.2023

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of Id. Commissioner of Income Tax (Appeals)-II, Nagpur [‘the CIT(A)’] dated 07.08.2013 for the assessment year 2008-09.

2. Briefly, the facts of the case are that the appellant is an individual deriving income under the head “business”. The Return of Income for the assessment year 2008-09 was filed on 27.09.2008 disclosing total income of Rs.63,110/-. Against the said return of

income, the assessment was completed by the Income Tax Officer, Ward-4(1), Nagpur ('the Assessing Officer.) vide order dated 21.12.2010 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') at a total income of Rs.42,87,099/-. While doing so, the Assessing Officer made addition of Rs.25,33,989/- being the gains made on purchase and sale of agricultural lands by holding that the transactions are in the nature of adventure in trade rejecting the contention of the appellant that the agricultural lands were held as capital asset. The Assessing Officer also made addition of Rs.12,75,000/- being the 50% of share of properties purchased by the assessee, the details of which are as under :-

<i>Schedule of the property</i>	<i>Seller</i>	<i>Purchase value as per purchase deed</i>	<i>Purchase value as per agreement to sale</i>	<i>Assessee's 50% share in cash component</i>
<i>Khasara No.41, Mouza Khadka, Tahsil Hingna, Nagpur</i>	<i>Shri. Nathuji &amp; Mahadeo Dabharde</i>	<i>Rs.31,00,000</i>	<i>Rs.57,00,000</i>	<i>Rs.13,00,000</i>
<i>Khasara No.43/1, Mouza Khadka, Tahsil Hingna, Nagpur</i>	<i>Shri. Parasram Akone</i>	<i>Rs.70,51,000</i>	<i>Rs.82,25,000</i>	<i>Rs.5,87,000</i>

3. According to the Assessing Officer, the appellant had failed to explain the sources for investments in the above-said properties.

4. Being aggrieved, an appeal was filed before the Id. CIT(A), who vide impugned order held that the gains arising out of the agricultural lands are not business income, but capital gains since the agricultural lands were situated beyond 8 kilometres from the Municipal Corporation of Nagpur and the lands being agricultural are exempt from tax.

As regards, the addition made on account of unexplained investments in respect of purchase of land from one Mr. Akone at Khadka, the Id. CIT(A) confirmed the addition rejecting the contention of the appellant that the land at Khadka was purchased by issuing a bearer cheque to the seller of the land i.e. Shri Akone on 29.11.2007.

5. Being aggrieved by the decision of the Id. CIT(A) confirming the addition of Rs.12,75,000/-, the assessee is in appeal before us in the present appeal.

6. It is contended before us that the appellant had purchased the land at Khadka by issuing a bearer cheque to the seller of the land i.e. Shri Akone amounting to Rs.1,75,000/- and Rs.10,25,000/-. Thus, it is contended that the source for purchase of land cannot be said to be unexplained.

7. On the other hand, ld. Sr. DR submits that the orders of the lower authorities are based on the material on record. The finding of the Assessing Officer that no bearer cheque was issued to the seller of the land remains uncontroverted. Thus, it is contended that the assessment order be confirmed.

8. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to the addition of Rs.12,75,000/- as unexplained investments in purchase of land at Khadka. The Assessing Officer had examined the seller of the land, who was stated to have denied the receipt of consideration through bearer cheque. The Assessing Officer also verified from the bank that the signature of the reverse side of the bearer cheque was not that of Shri Akone. In these circumstances, the Assessing Officer had rejected the explanation of the appellant that the consideration was paid by issuing of a bearer cheque. The appellant could not controvert the findings of the Assessing Officer by leading the necessary evidence. Thus, the contention of the appellant that the consideration was paid through bearer cheque cannot be accepted and, therefore, the Assessing Officer had rightly brought to tax a

sum of Rs.12,75,000/- as unexplained investments. Thus, we do not find any merits in the grounds of appeal filed by the assessee.

9. In the result, the appeal filed by the assessee stands dismissed.

Order pronounced on this 04<sup>th</sup> day of August, 2023.

**Sd/-**  
**(S. S. VISWANETHRA RAVI)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 04<sup>th</sup> August, 2023.

*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-II, Nagpur.
4. The CIT-II, Nagpur.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, नागपुर /  
DR, ITAT, Nagpur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.