

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H': NEW DELHI**

**BEFORE,
SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.96/Del/2023
(ASSESSMENT YEAR 2010-11)**

Virender Singh 66, Singhola Narela Delhi-110 040 PAN-BNBPS 0025E (Appellant)	Vs.	ITO Ward-38(4) New Delhi (Respondent)
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Appellant by	None
Respondent by	Mr. Sunil Kumar Yadav, Sr. DR

Date of Hearing	31/05/2023
Date of Pronouncement	23/08/2023

ORDER

PER M. BALAGANESH AM:

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-13, New Delhi, [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.345/17-18 dated 25/01/2019 against the order passed by Income Tax Officer, (hereinafter referred to as the 'Ld. AO') u/s 147/144 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') on 26/12/2017.

2. None appeared on behalf of the assessee despite sending of notice of hearing in electronic mode in the email id mentioned in Form 36. Accordingly, we deem it fit to dispose of this appeal on hearing the ld. DR and based on materials available on record.

3. At the outset, there is a delay of 1241 days in filing of appeal by the assessee before us. The assessee had stated in his affidavit that the order of ld. CIT(A) was received late by him and thereafter due to Covid, he was not mentally well. When this was confronted with the ld. DR, he did not raise any serious objections for condonation of delay. Hence we are inclined to condone the delay and admit the appeal of the assessee for adjudication.

4. The only issue to be decided in this appeal is as to whether the ld. CIT(A) was justified in confirming the addition made in the sum of Rs 56,18,000/- towards unexplained investment in the facts and circumstances of the instant case.

5. We have heard the ld. DR and perused the materials available on record. There was a Tax Evasion Petition (TEP) received by CCIT, Delhi vide letter no. 319 dated 05.06.2012 along with copy of

registered purchase deed regarding purchase of 4 bighas and 16 biswal of agricultural land at Singhola, Delhi for a purchase consideration of Rs 53,00,000/- and Rs 3,18,000/- paid as stamp duty thereof on 31.01.2010. The petition also alleged that all the payments were made in cash. This document was registered in the name of the assessee. Since the assessee did not have PAN and had not submitted his income tax returns, the case of the assessee was reopened vide issuance of notice u/s 148 of the Act on 17.03.2017. This notice was duly served upon the assessee. The case was later transferred from Ward -38(5), New Delhi to ITO, Ward 38(4), New Delhi, by the ld. Principal CIT -13, New Delhi vide order u/s 127 of the Act on 21.07.2017. Notice u/s 142(1) of the Act was issued on 28.07.2017, 28.08.2017 and 3.11.2017 to the assessee. There was no response from the assessee. Finally a show cause notice dated 13.11.2017 was issued through speed post to the assessee. In response thereto, the authorized representative of the assessee attended and filed a letter dated 4.12.2017 along with copy of manually filed income tax return for Asst Year 2010-11 with computation of income and sought for adjournment. Adjournment was granted upto 5.12.2017. Thereafter, there was no response

from the side of the assessee and hence the ld. AO was forced to complete the assessment *exparte* by making an addition of Rs 56,18,000/- as unexplained investment made in purchase of immovable property u/s 69 of the Act.

6. Before the ld. CIT(A), the assessee took a stand that source for investment in immovable property was met out of gift received from brother of the assessee, in his grounds of appeal. The ld. CIT(A) issued several notices to the assessee through post and in email, but there was no response from the assessee. Accordingly, the ld. CIT(A) proceeded to decide the issues based on materials available on record and upheld the action of the ld. AO. Aggrieved, the assessee is in appeal before us.

7. Considering the totality of facts and circumstances of the case, we feel that one last opportunity is to be given to the assessee to explain the sources for making investment in immovable property. Accordingly, the appeal of the assessee is restored to the file of ld. CIT(A) for *denovo* adjudication in accordance with law. The ground raised by the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 23rd August, 2023.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:23/08/2023

Pk/sps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI