

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E" DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.1306/DEL/2021
Assessment Year 2012-13

Nitin Kumar Garg Ch. No.206-207, Ansal Satyam RDC, Rajnagar Ghaziabad.	Vs.	ITO, Ward-2(5) Ghaziabad
TAN/PAN: AEWPG4730M		
(Appellant)		(Respondent)

Appellant by:	Shri Akhilesh Kumar, Adv.		
Respondent by:	Ms. Smita Singh, Sr.DR		
Date of hearing:	28	08	2023
Date of pronouncement:	06	10	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ('CIT(A)' in short) dated 15.09.2021 arising from the assessment order dated 14.12.2019 passed by the Assessing Officer (AO) under Section 144 r.w. Section 147 of the Income Tax Act, 1961 (the Act) concerning AY 2012-13.

2. Briefly stated, the Income Tax Department gathered AIR information that the assessee has purchased immovable property of Rs.1,01,82,000/- on 10.08.2018, i.e., during the Financial Year 2011-12 relevant to Assessment Year 2012-13 in question.

Consequently, notice under Section 148 r.w. Section 147 were issued to assess the unexplained investment. The show cause notices under Section 144 were issued in view of the non compliances of the notices. The assessee submitted before the Assessing Officer that the purchase of immovable property of Rs.1,01,82,000/-, stamp duty of Rs.7,13,000/- were made jointly with Shri Sachin Garg. The source of purchase of property was stated to be Home Loan of Rs.50 lakh taken from Punjab National Bank and unsecured loan taken from different entities to the tune of Rs.42,60,000/- and Rs.9,22,000/- paid by the assessee. The Assessing Officer called for the evidences and documents relating to secured and unsecured loan taken and the past savings generated. The assessee failed to give reply. The Assessing Officer accordingly treated 50% of the total investment being Rs.54,47,500/- as unexplained investment.

3. Aggrieved, the assessee preferred appeal before the CIT(A). The CIT(A), in the first appeal, after taking note of the facts emanating from records, observed that source of investment to the extent of Rs.2,52,500/- is found to be explained. The CIT(A) accordingly confirmed the remaining amount of Rs.51,95,000/- as unexplained investment.

4. Further aggrieved, the assessee preferred appeal before the Tribunal.

5. It is contended on behalf of the assessee that loan of Rs.50 lakh has been availed by the assessee which was erroneously considered to pertain to the other joint owners. Similarly, bank statement of the assessee and other documents were not

appreciated. The assessee also filed certain additional evidences i.e., copy of confirmation of the lenders etc. to establish the source.

6. In the light of the submissions made on behalf of the assessee and having regard to the additional evidences placed, we consider it expedient to remit the matter back to the file of the Assessing Officer for consideration of the issue afresh. The assessee shall be at liberty to establish the source of funds for acquisition of property and place such corroboration as may be considered necessary. We thus set aside the order of the CIT(A) and remit the matter back to the file of the Assessing Officer for consideration of issue afresh in accordance with law after giving reasonable opportunity to the assessee.

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

Order pronounced in the open Court on 06/10/2023

Sd/-

**[SAKTIJIT DEY]
VICE PRESIDENT**

DATED: /10/2023

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**