

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 1163/DEL/2021
Assessment Year: 2012-13

Surendra Pal Singh, Kamalesh Bhawan Hathras JN, Hathras. PAN- ARSPS3986N	<u>Vs</u>	Income-tax Officer, Ward-67(6), New Delhi.
APPELLANT		RESPONDENT
Appellant by		Sh. Ankit Soni , CA
Respondent by		Sh. Om Parkash, Sr. DR
Date of hearing		20.12.2023
Date of pronouncement		20.12.2023

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 23.07.2021, pertaining to the assessment year 2012-13. The assessee has raised following grounds of appeal:

“On the facts and circumstances of the case, the learned CIT(A) has erred:-

1. In confirming addition of Income Rs. 28 ,54,000/ under section 69A as unexplained money make by the assessing officer, as the assessee has deposited the said amount from accumulated cash generated from agriculture income of the previous year and preceding previous years because his son Mr. Shiv Kumar needed fund for property purchase.

2. In ignoring the fact that assessee has owned the agricultural land equivalent to 9.82 Acre and considered the cash deposited as unexplained money under section 69A of the Income Tax Act 1961.

3. In confirming addition of Income Rs. 28,54,000/- of learned assessing officer on the ground that the no income tax return was filed by the assessee for the earlier years because assessee has income from agricultural activities only which is exempt under section 10(1) of the Income Tax Act 1961 therefore he is not liable to file Income Tax in the relevant financial year and preceding financial years. Further, his pension income from government was also below taxable limit.

4. In confirming the addition of Income Rs. 28,54,000/- of learned assessing officer on the ground that "unlikely that any person would keep cash for years together without investing", as there is no provision under Income Tax Act 1961 to restrict the assessee to keep cash balance with source of such cash deposit."

2. Facts, in brief, are that as per AIR information the AO observed that during A.Y. 2012-13 the assessee had deposited cash amounting to Rs. 28,54,000/- in his bank account with ICICI Bank Limited. The assessee did not file any return of income in response to the statutory notice issued by the AO. Rejecting the submissions of the assessee that the cash deposit was out of his accumulated agriculture income and the pension income being taxable limit no return was filed, the AO assessed income of the assessee at Rs. 28,70,930/- by adding cash deposit of Rs. 28,54,000/- u/s 69A of the Act and Rs. 16,930/- as per 26AS statement. Aggrieved against this the assessee preferred appeal before the learned CIT(Appeals), who dismissed the appeal by sustaining the action of the AO. Aggrieved against this the assessee is in appeal before this Tribunal.

3. Apropos to the grounds of appeal learned counsel for the assessee submitted that without verifying the stand of the assessee that the cash deposit in bank was out of accumulated agriculture income which was exempt from income tax and the pension income being taxable limit no return was filed by him, the AO made impugned assessment solely on the ground that the assessee had not filed income tax return for the assessment year in question. He submitted that in appeal the learned CIT(A) without verifying the facts, dismissed the appeal of the assessee. He submitted that considering the facts of the present case, in order to do substantial justice the orders of lower authorities may be set aside and the assessment may be remitted back to the file of AO for assessment fresh after providing adequate opportunity to the assessee of being heard.

4. On the other hand, learned DR supported the orders of the authorities below.

5. I have heard rival contentions and perused the material available on record. There is no dispute that before the AO the assessee had taken stand that the impugned cash deposit in bank was out of accumulated agriculture income and that since his pension income was below taxable limit no return of income was filed by him. The AO without verifying the contention of the assessee properly, made the addition. Therefore, considering the totality of the facts of the present case, to subserve the interest of principles of natural justice, I deem it proper to set aside the orders of authorities below and restore the assessment to the file of the AO to

verify and make further inquiry in respect of the claim of the assessee and pass assessment order afresh in accordance with law, of course, after affording adequate opportunity of being heard to the assessee. I order accordingly. Grounds of appeal are allowed for statistical purposes.

6. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 20.12.2023.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

MP

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**