

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. SAKTIJIT DEY, VICE PRESIDENT
AND
SH. N. K. BILLAIYA, ACCOUNTANT MEMBER**

ITA No.8814/Del/2019
Assessment Year: 2014-15

Rajbir Singh Vill. Badhmalik, PO Rai, District, Sonapat, Sonipat PAN No.DLAPS9561R	Vs.	ITO Ward-5 Sonapat
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. K. Sampath, Advocate Sh. V. Rajakumar, Advocate
Respondent by	Sh. Vivek Vardhan, Sr. DR

Date of hearing:	18/12/2023
Date of Pronouncement:	21/12/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A), Rohtak dated 30.08.19 pertaining to A.Y. 2014-15.

2. The only grievance of the assessee is that the CIT(A) erred in confirming the addition of Rs.2505000/- made by the AO.

3. Briefly stated the facts of the case are that the assessee filed his return of income declaring income of Rs.15890/-. The return was selected for scrutiny assessment and accordingly statutory notices were issued and served upon the assessee.

4. During the course of the scrutiny assessment proceedings the AO noticed cash deposits in the bank account. The assessee was asked to explain the source of cash deposit. The assessee filed a detailed reply. The reply of the assessee did not find any favour with the AO who was of the opinion that the assessee failed to explain the cash deposits in UCO bank on various dates. The AO observed that all the documents so produced are prepared only to justify the bank deposits by introducing cash in the so called cash book by showing sales. The AO concluded by holding that the cash deposits made in UCO Bank on various dates are made by the assessee from income earned not disclosed to the department and accordingly made addition of Rs. 72 lacs.

5. Assessee challenged the addition before the CIT(A) and explained that the cash have been deposited out of the sources explained in the books of account. After considering the facts and the submission the CIT(A) called for a remand report and after perusing the remand report the CIT(A) sustained the addition of Rs.2505000/-.

6. Aggrieved the assessee before us. The Counsel for the assessee reiterated what has been stated before the lower authorities.

7. The DR strongly supported the findings of the lower authorities.

8. We have carefully considered the orders of the authorities below. The initial availability of cash and the nature of business can be understood from the following chart :-

Year wise Sequence of Activity done by assessee is given as under:

Financial Year	Remarks
2008-09	Land Acquired by government and compulsory land acquisition amounting Rs. 81,90,310.00 received from Government. (Evidence enclosed)
2008-09	Started Business of Dairy with funds available due to compulsory acquisition of land received
2008-09	Purchased Agricultural land at Village Kakoda, Tehsil Israna , Panipat (Evidence enclosed)
2009-10	Run Dairy business, Received Compulsory land acquisition proceeds and earned from Agriculture land
2010-11	Run Dairy business, Received Compulsory land acquisition proceeds and earned from Agriculture land
2011-12	Run Dairy business, Received Compulsory land acquisition proceeds and earned from Agriculture land
2012-13	Run Dairy business and S.K. Trades , Received Compulsory land acquisition proceeds and earned from Agriculture land

9. We have also considered the remand report submitted by the AO which is placed at pages 73 to 75 of the Paper book.

10. There is no dispute that the assessee was carrying out of business of dairy farming and the books of account are

maintained regularly. The assessee has furnished monthwise cash summary alongwith cash flow statement which was simply rubbished by the AO stating that it has been prepared only to justify the cash deposit without pointing out any specific defect or error in the summary of cash flow. The AO has simply disbelieved the closing stock of cattle feed and live stock without giving any cogent reason.

11. Without pointing out any error or defect in the books of account regularly maintained by the assessee the AO cannot make the impugned addition on presumption and surmises.

12. Even in the remand report the AO has observed that the amounts were withdrawn from the bank account of the assessee itself and later on deposited in the bank accounts of the assessee. Considering the facts in totality we are of the considered view that the assessee has successfully discharged the initial onus cast upon him to explain the source of cash deposit, therefore, the AO is directed to delete the addition of Rs.2505000/-.

13. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 21.12.2023.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

NEHA

Date:- .12.2023

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER