

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'SMC': NEW DELHI)  
BEFORE SHRI SHAMIM, ACCOUNTANT MEMBER**

**ITA No:- 2335/Del/2023  
(Assessment Year: 2007-08)**

Neetu Nayyar, Delhi.	Vs.	DCIT, Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>PAN No: AAFPN7484A</b>		

**Assessee By** : Shri Anil Jain, CA  
**Revenue By** : Shri Om Parkash, Sr. DR

**Date of Hearing** : 08.01.2024  
**Date of Pronouncement** : 16.01.2024

**ORDER**

**PER SHAMIM YAHYA, A.M.**

This appeal by the Assessee is directed against the order passed by the Learned Commissioner of Income Tax (Appeals)-27, New Delhi, dated 27.07.2023 and pertains to Assessment Year 2007-08. The issue raised in this appeal is that the Ld. CIT(A) erred in sustaining the addition of Rs. 691875/- on account of investment in cash in AEZ group project in Indrapuram Habitat centre Ghaziabad as income from undisclosed sources.

2. Brief facts of the case are as under:

Brief facts of the case are that in this case information was received by the AO from the ADIT (Inv.), Unit-11(3), Delhi that the appellant has made investment in Immovable property bearing no. Ground Floor, Commercial Space measuring 750 54. Yards situated at Indirapuram Habitat Centre, Ghaziabad jointly with Sh. Shiv Kumar Nayyar for total amount of Rs. 23,06,220/-, out of which Rs. 13,83,750/- was paid in cash. Thereafter, after recording reasons, proceedings u/s 147 of the Act were initiated and notice u/s 148 of the Act was issued on 08.06.2012. Subsequently, assessment was completed vide order u/s 147 r.w.s. 143(3) dated 12.03.2013 at an assessed income of Rs. 19,61,372/-after making following additions:

- i. Addition of Rs. 6,91,875/- on account of investment made in cash in immovable property.
- ii. Addition of Rs. 9,55,542/- on account of addition to capital account from undisclosed sources of income

Aggrieved with assessment order, the appellant filed first appeal before CIT(A). The Ld. CIT(A)-14, Delhi vide order dated 06.01.2015 in Appeal No. 30/13-14 confirmed the above both additions made by the Ld. AO.

Subsequently, the appellant filed second appeal before the Hon'ble ITAT. The Hon'ble ITAT, Delhi vide order dated 05.05.2020 in ITA No. 1637/DEL/2015 remanded back the matter to the file of the AO to decide the matter a fresh.

In compliance to directions issued by the Hon'ble ITAT, the Id. AO framed fresh assessment vide order u/s 254/147/143(3) of the Act dated 21.03.2022 at an assessed income of Rs. 10,26,126/- after making following additions:

- i. Addition of Rs. 6,91,875/- on account of investment made in cash in immovable property.
- ii. Addition of Rs. 44,750/- on account of addition to capital account from undisclosed sources of income.

3. Upon the assessee's appeal, the Ld. CIT(A) also confirmed the AO's action. He noted that ITAT has not given any specific finding. Against this order, the assessee is in appeal before ITAT.

4. I have heard both the sides and perused the records.

5. I find that ITAT has given clear direction in this case for examination by the Assessing Officer. The ITAT order reproduced by the CIT reads as under:

*"7. We have heard both the parties and perused all the relevant material available on record. The Ld. AR during the hearing submitted that the assessee is not pressing Ground No. 2, hence Ground No. 2 is dismissed. It is pertinent to note that the CIT(A) observed that since no withdrawal was shown in the return of Income by the HUF, therefore, it is difficult to believe that the HUF has contributed for the household expenses of the assessee. Besides that the CIT(A) also rejected the contention of the assessee that the assessee required the cash in hand for his probable medical expenses. But the fact remains that the assessee has also explained the introduction capital of Rs. 8,25,505/- as capital by stating that he had received money from his father in law of Rs. 5,00,000/-, amount transferred from minor son saving bank account of Rs. 1,41,800/-, amount transferred from minor daughter's saving account of Rs. 23,000/-, amount transferred from wife's saving account of Rs. 63,000/- apart from*

*dividend income and mutual fund receipts. The Assessing Officer as well as CIT(A) both did not look into the evidences brought on record by the assessee. The CIT(A) also has not given any cogent reason as to why said addition sustains. In fact, the observation of the CIT(A), that no documentary evidence was shown in respect of father in law and wife is incorrect and needs to be verified. Therefore, it will be appropriate to remand back this matter to the file of the Assessing Officer to verify the evidences which were produced by the assessee before the CIT(A). Thus, we remand back the matter to the file of the Assessing Officer for fresh adjudication as regards to evidence which was brought on record by the Assessee and decide the matter a fresh. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. Ground No. 1, 3, 3.1, 3.2, 4, 4.1 are partly allowed for statistical purpose. As regards to Ground No. 5, the CIT(A) was rightly rejected the deduction u/s 80C of the Act amounting to Rs. 50,000/-. Hence, Ground No. 5 is dismissed. As regards to Ground No. 6 is general in nature hence dismissed. As regards to Ground No. 7, the same is consequential, hence it is not adjudicated upon at this juncture. Thus, appeal of the assessee being ITA No. 1636/Del/2015 is partly allowed for statistical purpose."*

6. I note that despite specific directions given by the ITAT, the Assessing Officer did not examine. The Ld. CIT(A) also brushed it aside. In these circumstances, in my considered opinion, the authorities below have erred in sustaining the addition of Rs. 691875/-. I direct that the said addition be deleted.

7. In the result, appeal filed by the assessee stands allowed.

Order Pronounced in the Open Court on 16.01.2024

Sd/-

**(SHAMIM YAHYA)**  
**ACCOUNTANT MEMBER**

Dated: 16/01/2024  
(Pooja)

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	12.01.24
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	