

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

आ.अ.सं./I.T.A No.2523/Del/2023

निर्धारणवर्ष/Assessment Year:2012-13

Karan Singh Tyagi C/o C.S. Anand, Advocate, 104, Pankaj Tower, 10 L.S.C., Savita Vihar, New Delhi.	बनाम Vs.	ITO, Ward 5(2)(1), Gautam Budh Nagar, Uttar Pradesh.
PAN No.AEQPTA708Q		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

Assessee by	Shri C.S. Anand, Advocate
Revenue by	Ms. Amanpreet Kaur Walia, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	07.11.2023
उद्घोषणाकीतारीख/ Pronouncement on	31.01.2024

**आदेश /O R D E R**

**PER C.N. PRASAD, J.M.**

This appeal is filed by the Assessee against the order of the Ld.CIT(A)-(NFAC), Delhi dated 13.07.2023 for the AY 2012-13.

Assessee has raised the following grounds:

*"1. That the assumption of jurisdiction u/s 147 is illegal.*

*2. That the re-assessment proceedings are liable to be quashed because the jurisdictional notice u/s 148 (stated to have been issued on 22.03.2019) was not served on the assessee.*

3. That the re-assessment order dt.05.12.2019 passed u/s 144/147 is liable to be annulled because the statutory notices were not served on the assessee.

4. That on the peculiar facts of the case and in law, the cash deposited in the bank account (which represented the sale proceeds of lands forming part of ancestral agricultural lands) ought not to have been treated as 'unexplained money in terms of section 69A'.

5. That on the peculiar facts of the case and in law, addition of Rs.44,12,000/- u/s 69A ought not to have been made/sustained.

6. That on the peculiar facts of the case and in law, addition of Rs.44,12,000/- ought not to have been made/sustained in the hands of the assessee in his individual capacity because the land which was sold during the year and whose sale proceeds were deposited in the bank account, was ancestral.

7. That the assessment order passed by the lower authorities are liable to be annulled because the principles of natural justice were violated.

8. That the appeal order dt.13.07.2023 passed u/s 250 is liable to be cancelled because after specifically seeking clarification from the assessee regarding the apparent delay in filing the appeal (vide Annexure to notice dt.16.06.2023 u/s 250, fixing compliance for 30.06.2023) and thereafter receiving the reply from the assessee vide letter uploaded on 29.06.2023, the learned officer of NFAC had closed the appellate proceeding and ultimately passed the Order dt.13.07.2023, dismissing the appeal while stating that the assessee had not filed any submissions alongwith supporting documentary evidences.

Without Prejudice

9. That in any case, the addition of Rs.44,12,000/- made/sustained u/s 69A is highly excessive.”

2. The Ld. Counsel for the assessee, at the outset, submits that the Ld.CIT(A) dismissed the appeal of the Assessee without giving any finding on merits. Ld. Counsel submits that the appeal has been dismissed by the Ld.CIT(A) observing that the assessee did not file any submissions and supporting the documentary evidences in support of the grounds filed. The Ld. Counsel for the assessee submits that after seeking clarification from the assessee regarding the delay in filing of the appeal and for the compliance on 30.06.2023 the assessee uploaded letter on 29.06.2023 on condonation of delay and thereafter the Ld.CIT(A) close the NFAC proceedings and finally passed the order on 30.07.2023. The Ld. Counsel for the assessee submits that since the appeal of the assessee was not decided on merits. The appeal may be restored to the file of the Ld.CIT(A) for deciding the appeal on merits.

3. Ld. DR has no serious objection.

4. On hearing the rival contentions and perused the order of the Ld.CIT(A), we observed that the Ld.CIT(A) did not go into merits of the grounds raised by the assessee, thus, in the interest of justice, we restore this appeal to the file of the Ld.CIT(A) for fresh adjudication in accordance with law after providing adequate opportunity of being heard to the assessee.

5. Grounds raised by the assessee are allowed for statistical purpose.

6. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 31/01/2024

Sd/-  
(C.N. PRASAD)  
JUDICIAL MEMBER

Dated: 31/01/2024

*\*Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT  
(DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi