

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

**BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 4102/DEL/2018
Assessment Year: 2009-10**

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| Bharat Bhushan, 50, B.M. Compound, G.T. Road, Ghaziabad. PAN- AEFPB3317N | <u>Vs</u> | Income-tax Officer, Ward-1(5), Ghaziabad |
| APPELLANT | | RESPONDENT |
| Assessee represented by | None | |
| Department represented by | Shri Kanv Bali, Sr. DR | |
| Date of hearing | 16.01.2024 | |
| Date of pronouncement | 05.03.2024 | |

ORDER

PER ANUBHAV SHARMA, JM:

The assessee has come in appeal against the order dated 27.03.2018 passed by the Commissioner of Income Tax (Appeals)-2, Noida (hereinafter referred as “learned First Appellate Authority” or in short “FAA”) in Appeal no. E-174/2016-17/GZB, for the assessment year 2009-10, arising out of the assessment order dated 31.08.2016 u/s 147/144 of the Income-tax Act, 1961 (hereinafter referred as the “Act”), passed by the Income-tax Officer, Ward-1(5), Ghaziabad (hereinafter referred in short as “Ld. AO”).

2. None appeared for the assessee at the time of hearing and record shows notices have been issued repeatedly. Report is received that address of assessee is incomplete. Notices have also been issued on fresh address provided by the Revenue and through e-mail. Ever since the institution of appeal, the matter is listed on 12 occasions. No more notice is justified. Arguments of learned DR were heard, who supported the findings of learned tax authorities below.

3. As we appreciate the matter on record, it comes up that as regards ground no. 1, there is no material before us to consider the allegation that notice u/s 148 was issued without application of mind. On the contrary presumption is that official acts are done in due course of law. In the light of aforesaid, ground no. 1 is also decided against the assessee.

4. As regards ground no. 2, it comes up that this addition is made on the basis that assessee had sold immovable property worth Rs. 1,07,51,000/- during the year which included property in the form of land bearing khasra no. 3015 village & Pargana Dasna tehsil Ghaziabad, which assessee had claimed to be more than ten kms. away from headquarter of Municipal Corporation, Ghaziabad. However, the certificate issued by the Tehsildar Ghaziabad was disbelieved being ambiguous and the sale was considered to be a short term capital gain. There is no material before us to hold a different opinion. Ground no. 2 is also decided against the assessee.

5. As regards to ground no. 3, it comes up that addition was made on the basis that AO had disallowed the expenses claimed u/s 48 for land filling etc. The order of learned authorities below show that the expenditure denied is of the nature of soil filling and boundary wall as cost of improvement of the property purchased as back as on 25.05.2006. The burden was on the assessee to establish the same and except for filing bills of same from a contractor, there was no other evidence that how the property was made beneficial with this land filling exercise. Thus, learned tax authorities below have rightly disallowed the expenditure. Ground no. 3 has no substance.

6. As regards to ground no. 4, issue involved is the addition of Rs. 59,05,000/- made on account of cash deposited by the assessee in the Punjab National Bank, which was considered unexplained money u/s 69 of the Act. As such the assessment before learned AO was concluded u/s 147/144. Learned CIT(A) had allowed the additional evidence and remand report was called from the AO. Learned CIT(A) has dealt the issue. We concur with the observations of learned CIT(A) that in the absence of any valid justification or evidence, the claim of assessee that the cash deposit in the bank account should be considered to be made out of cash withdrawals on the previous occasions, cannot be sustained. Thus, ground no. 4 is decided against the assessee.

7. Consequently, the appeal of the assessee is dismissed.

Order pronounced in open court on 05.03.2024.

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

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| Order signed and pronounced on | |
| File comes to P.S. | |
| File sent to the Bench Clerk | |
| Date on which file goes to the AR | |
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| Date of dispatch of Order | |
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