

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

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.3043/DEL/2023
(Assessment Year: 2012-13)**

Daya Singh,
640-P, Sector 23,
Sonipat – 131 001 (Haryana).

vs.

ITO, Ward 1,
Sonipat.

(PAN : ABPPS5011H)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Akshat Sharma, Advocate
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 29.02.2024
Date of Order : 06.03.2024

ORDER

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 15.09.2023 for the assessment year 2012-13.

2. Grounds of appeal taken by the assessee read as under :-

“1. On the facts and in circumstances of the case and in law, Id. CIT (Appeal) has erred in upholding the validity of assessment which is without jurisdiction. It is prayed that the impugned assessment may kindly be quashed.

2. On the facts and in circumstances of the case and in law, Id. CIT (Appeal) erred in upholding the validity of assessment without service of notice u/s 148 of the Act. It is prayed that the impugned assessment order may kindly be quashed.”

3. In this case, in an ex-parte order, AO made addition of unexplained cash deposited amounting to Rs.10,79,000/-. Before the Id. CIT (A),

assessee pleaded that the amount was actually withdrawn from assessee's own bank which was received by the assessee against compulsory acquisition of land. Assessee has withdrawn that money for purchase of another land and since the second purchase did not materialise it had to deposit back the amount with the bank. Ld. CIT (A) dismissed this ground taken on account of his observation that there was not need to withdraw the cash by the assessee.

4. Against this order, assessee is in appeal before me. I have heard both the parties and perused the records.

5. I find that it is the submission of the assessee's counsel that assessee has received compensation for compulsory acquisition of land. Assessee has withdrawn the amount for purchasing another land. Since the second purchase did not materialise assessee deposited back the amount in 3 – 4 months time. In my considered opinion, the assessee has a cogent ground in this regard. Hence, I set aside the orders of authorities below and decide the issue in favour of the assessee.

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

Order pronounced in the open court on this 6th day of March, 2024.

**Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 6th day of March, 2024
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**