

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,
NEW DELHI

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

ITA No. 814/DEL/2019 [A.Y. 2013-14]

Smt. Bimlesh Sharma
C - 60, Shyam Park Extension
Sahibabad, Ghaziabad

Vs.

The C.I.T.
Ghaziabad

PAN - ASOPS 7462 G

(Applicant)

(Respondent)

Assessee By : Shri Sachin Sharma, Son of the assessee

Department By : Shri Kanv Bali, Sr. DR

Date of Hearing : 02.04.2024

Date of Pronouncement : 05.04.2024

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the
ld. CIT(A), Ghaziabad dated 06.09.2016 pertaining to A.Y. 2013-14.

2. The sum and substance of the grievance of the assessee is that the Id. CIT(A) erred in confirming the addition of Rs. 1.25 crores made u/s 69 of the Act.

3. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

4. Briefly stated the facts of the case are that the assessee purchased immovable property of Rs. 1.25 crores jointly with her son. The assessee was asked to explain the source of investment. Several opportunities were given but no plausible reply/explanation was given by the assessee. Therefore, the Assessing Officer completed assessment by making addition of Rs. 1.25 crores being investment towards purchase of immovable property.

5. The assessee carried the matter before the Id. CIT(A) and explained that the assessee had taken loan from the PNB Housing Finance Ltd amounting to Rs. 90 lakhs and balance amount has been invested out of past savings and income. It was also brought to the notice of the Id. CIT(A) that during A.Y 2011-12, the assessee had

surrendered Rs. 8 lakhs. The evidences furnished by the assessee were transmitted to the Assessing Officer by the ld. CIT(A) who called for a remand report.

6. In his remand report, the Assessing Officer stated that the entry of Rs. 90 lakhs being loan from PNB Housing Finance is reflected in the bank account of Shri Sachin Sharma and it is not clear whether it is housing loan. The Assessing Officer did not accept the evidences in the remand report and basis which, the ld. CIT(A) confirmed the addition.

7. Before us, the ld. counsel for the assessee reiterated that Rs. 90 lakhs was taken from PNB Housing Finance. The certificate from the bank was also submitted.

8. Having perused the records and orders of the authorities below, we find that there is no dispute that the property of Rs. 1.25 crores was jointly purchased by the assessee with her son Shri Sachin Sharma. Being equal owner of the property, it would be but logical to consider the investment equally in both the hands, which means that the assessee is answerable only to the extent of her share of investment of

Rs. 62.50 lakhs. It is also not in dispute that the assessee has taken housing loan from PNB Housing Finance to the tune of Rs. 90 lakhs.

9. We also find that the bank has issued drafts directly in the name of the seller of the property. Incidentally, no enquiry has been made by the Assessing Officer from the bank in respect of the impugned payment by the bank. Since the assessee has furnished documentary evidences in support of her claim of investment and considering the fact that she is liable to explain only 50% of the said investment, we therefore, do not find any merit in the impugned addition. We, accordingly, direct the Assessing Officer to delete the same.

10. In the result, the appeal of the assessee in ITA No. 814/DEL/2019 is allowed.

The order is pronounced in the open court on 05.04.2024.

Sd/-

**[SAKTIJIT DEY]
VICE PRESIDENT**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 05th APRIL, 2024.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
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	