

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

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.2009/DEL/2023
(Assessment Year: 2012-13)**

Subhash Chand,
Village Baroli,
Palwal – 121 102 (Haryana).

vs.

ITO, Ward II (4),
Faridabad.

(PAN : AWAPC7965Q)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Alok Kumar Gupta, CA
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 09.04.2024
Date of Order : 15.04.2024

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

This appeal by the assessee is directed against the orders of the Id. CIT (Appeals)/National Faceless Appeal Centre dated 18.05.2023 for the assessment year 2012-13.

2. Assessee has taken Grounds of appeal which read as under :-

“1. The Id. CIT (A) erred in not holding the assessment proceedings carried u/s 147 of the Income Tax Act, 1961 null and void in as much as the notice u/s 148 of the Income Tax Act, 1961 was never served on the appellant and the assessment order was framed without jurisdiction.

2. On the facts and circumstances and applicable law the Id. CIT (A) erred in holding the sum of Rs.49,50,000/- received by the appellant from Shri Ajit Singh to purchase land for him as loan/deposit in cash and further erred in holding it attracted the

provisions of section 269SS rws 271D of the Income Tax Act, 1961.”

3. Brief facts of the case are that assessee is a villager engaged in farming. On the basis that a sum of Rs.49,50,000/- was deposited by him in ins saving bank account with HDFC Bank, the case was reopened under section 147 of the Income-tax Act, 1961 (for short ‘the Act’) and in an ex-parte order, the same amount was assessed as income of the assessee.

4. Against this order, assessee appealed before the Id. CIT (A). Ld CIT (A) elaborately considered the submissions, accepted the additional evidences, called for remand report, rejoinder to remand report and clarification. Finally, he agreed that the amount was not to be added as income of the assessee. However, he held that there is violation of provisions of section 269SS of the Act and directed the AO to initiate penalty under section 271D of the Act.

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

6. I find that the addition in this case was duly deleted by the Id. CIT (A) by accepting that Shri Ajit Singh has admitted to have given cash of Rs.49,50,000/- for purchase of land. When Revenue authorities are accepting that Shri Ajit Singh had given cash for purchase of land to the assessee, there is no occasion to treat the same as loan/deposit warranting attraction of provisions of section 269SS of the Act. Hence, in my

considered opinion, Id. CIT (A) erred in passing a contradictory order. I agree with the Id. CIT (A) that the cash deposit is not unexplained credit and cannot be added as such. Furthermore, when the source has been accepted that it was received from Ajit Singh for purchase of land, there is no occasion to treat the amount as loan/deposit attracting the provisions of section 269SS. Hence, I direct that the addition be deleted and the direction of Id. CIT (A) to initiate penalty u/s 271D of the Act is quashed.

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

Order pronounced in the open court on this 15TH day of April, 2024.

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

**Dated the 15TH day of April, 2024
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Copy forwarded to:

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

**AR, ITAT
NEW DELHI.**