

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH' SMC': NEW DELHI
BEFORE,
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
ITA No.3034/Del/2023
(ASSESSMENT YEAR 20211-12)**

Dhoom Singh Sharma 9/1060 HIG, Vasundhara, Ghaziabad, Uttar Pradesh PAN-ADFPS8951C (Appellant)	Vs.	ITO Ward 2(1)(2) New Delhi (Respondent)
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Appellant by	Shri Ved Jain (Amicus Curiae)
Respondent by	Shri Om Prakash, Sr. DR

Date of Hearing	09/05/2024
Date of Pronouncement	28/05/2024

ORDER

PER YOGESH KUMAR U.S.JM:

This appeal is filed by the Assessee against the order of Income Tax Department/National Faceless Appeal Centre ('NFAC' for short), dated 12/06/2023 for the Assessment Year 2011-12.

2. The Grounds of Appeal are as under:-

"1. That having regard to the facts and circumstances of the case, the Ld. Commissioner of Income Tax (Appeals) hereinafter referred to as the 'Respondent' has grossly

erred in stating the facts and not considered various explanations submitted by the Assessee.

2. The income/receipts of wife and daughter of the appellant has wrongly been added to the income of the assessee in spite of submitting relevant documents before The Commissioner of Income Tax (Appeals)

3. Cash received from sale of 2nd property has been properly amounting to Rs. 2,38,000/- declared in ITR and has again been added to the income of the appellant.

4. That Ld. Commissioner of Income Tax (Appeals) has outrightly rejected various contentions of the Appellant without due examination of facts and documents submitted.

5. The Appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other. ”

3. Brief facts of the case are that, the assessee filed its original return of income showing total income at Rs. 4,95,070/-. As per AIR information, the assessee made cash deposit of Rs. 19,80,000/- during the Financial Year 2010-11 in the saving bank account. The assessee has been called to furnish certain details/information with regard to the said cash deposits. The case was reopened u/s 147 of the Income Tax Act, 1961 ('Act' for short) and a notice u/s 148 of the Act was issued. In response to the notice u/s 148 of the Act, no return of income was furnished. An order u/s 143(3)/147 was passed on

23/10/2018 assessing the income of the assessee at Rs. 22,52,489/- by making addition of Rs. 16,45,000/- on account of unexplained cash deposit and Rs. 1,12,419/- account of undisclosed interest from bank. Aggrieved by the assessment order dated 23/10/2018, the assessee preferred an Appeal before the CIT (A). The Ld. CIT(A) vide order dated 12/06/2023 gave relief of Rs. 2,00,000/- and Rs. 1,04,065/- and confirmed the balance addition of Rs. 14,53,354/-. Aggrieved by the order of the Ld. CIT(A) in sustaining the partial addition, the assessee preferred the present Appeal on the Grounds mentioned above.

4. The assessee being a senior citizen appeared party in person and he was not able to argue the case, therefore, at the request of the Bench Ld. Counsel Sh. Ved Jain assisted the bench as *amicus curie* in the matter. Shri Ved Jain, Advocate submitted that the assessee produced detailed explanation about the source of availability of cash and in support of the same, details of agriculture land held by each one of them and also filed the affidavits from the buyer of the agriculture produces. The assessee has also produced registered sale deed and the detailed explanation about the cash being kept with him and his wife for the purpose of medical reasons since the wife of the assessee was suffering from dementia, but the Ld. CIT(A) arbitrarily rejected the explanation given by the assessee and brushed aside the documentary evidences

produced by the Assessee without controverting the same. Thus, sought for deletion of the addition which has been confirmed by the Ld. CIT(A).

5. Per contra, the Ld. Departmental Representative relying on the orders of the Lower Authorities sought for dismissal of the Appeal filed by the assessee.

6. We have heard both the parties and perused the material available on record. The only basis for reopening the assessment was that deposit of cash of Rs. 19,80,000/- in the joint bank account being maintained by the assessee and his wife Smt. Sarla Verma and daughter Dr. Garima Sharma. It is the case of the assessee that all the three persons including the assessee were using the said bank account for banking purpose. During the assessment proceedings in order to verify the financial transactions a letter was issued to the assessee requiring him to furnish certain information with regard to the cash deposit. The reply and the submissions made by the assessee was found not satisfactory by the A.O, accordingly, made addition. During the course of Appellate proceedings before the CIT(A), the assessee submitted detailed explanation about the source of availability of cash in following manners:-

<i>Source of Income</i>	<i>Amount in Rs.</i>
<i>Agricultural income of Smt. Sarla Sharma</i>	<i>10,17,075</i>
<i>Agricultural income of the assessee himself</i>	<i>1,90,000/-</i>
<i>Professional income of Dr. Garima Sharma, daughter of the assessee</i>	<i>2,00,000/-</i>
<i>Sale proceeding of agricultural land by Smt. Sarla Sharma (this sale proceed was other than the sale proceeds of Rs. 3,35,000/- for which credit has already been given by the A.O. in the assessment order).</i>	<i>2,38,000/-</i>
<i>Cash in hand with the assessee</i>	<i>1,00,000/-</i>
<i>Cash in hand with the wife and the daughter</i>	<i>3,00,000/-</i>
Total	20,45,075/-

7. In support of the above submission, the assessee submitted details of agriculture land held by each one and also affidavit from the buyer of the agriculture produce which are also placed before us at page No. 24 to 30 of the paper book. The assessee has also produced registered sale deed at Page No. 41 to 47 of Paper Book as regard the sale of land of Rs. 2,38,000/- registered on 15/10/2010, one more sale deed in respect of the other land for Rs. 3,35,000/- was also filed before the A.O. which is placed at Page No. 31 to 39 of the paper book. In so far as cash being kept with the assessee, the assessee submitted that since the wife of the assessee was suffered from dementia, for the purpose of medical treatment the cash was kept at home for the purpose of convenience.

Further, the bank interest income added by the Assessing Officer is not the bank interest but the maturity of NSC.

8. The Ld. CIT (A) has not considered the above evidence in the right spirit, thereby restricted the relief to the tune of Rs. 2,00,000/- only and confirmed the rest of the addition. Though the Ld. CIT(A) has quoted the detailed submission made by the assessee at para 6.2.1, without adjudicating and considering the explanations and without any basis, restricted the credit of Rs. 2,00,000/- only, though the assessee has provided proper explanation and the documentary evidence regarding agriculture income. Considering the land holdings of the assessee and his children, affidavit of the persons who have carried out the agriculture operation and the Affidavits of the persons purchased the agriculture produce, should have been considered and the Ld. CIT(A) and should have deleted the addition. In our considered opinion, the Ld. A.O. and the Ld. CIT(A) have committed error in making and confirming the addition in the hands of the assessee. Thus, we find merit in the Grounds of appeal of the assessee, accordingly, the additions made by the A.O. which was confirmed by the Ld. CIT(A) is hereby deleted and the Grounds of Appeal of the assessee are allowed.

9. In the result, the Appeal of the assessee is allowed.

Order pronounced in open Court on 28th MAY, 2024

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Dated: 28/05/2024

R.N, Sr.ps

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI