

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA nos. 1599 & 1600/Del/2024
Asstt.Yrs. 2011-12 & 2012-13**

Mahesh Chand, House no. 75, Baba Haridaya Ram Colony, Mujesar, Haryana-121005. PAN: AFEPC 1863 N	<u>Vs</u>	Income-tax Officer, Ward 1(5), Faridabad.
APPELLANT		RESPONDENT
Appellant by		Ms. Kavita Gupta, CA; & Shri Ankit Kansal, CA
Respondent by		Shri Sanjay Kumar Sr. DR
Date of hearing		21.08.2024
Date of pronouncement		21.08.2024

ORDER

PER KUL BHARAT, JM:

These two appeals by the assessee, pertaining to assessment years 2011-12 and 2012-13, are directed against two separate orders of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 14.02.2024. Since identical issues are involved for adjudication in both the appeals, the same were taken up together for hearing and are being disposed of by a common order for the sake of convenience.

2. First we take up ITA no. 1599/Del/2024 for A.Y. 2011-12. The assessee has taken following grounds of appeal:

“1 That the order passed u/s 250 is bad in law as the same has not been decided on merits which is against the principal of Natural Justice.

2 That the order passed by Ld. A.O. U/s 147 r.w.s. 144 is bad in law as the notice U/s 148 was never served on the assessee.

3 That the order passed U/s 250 is bad in law as the Honorable CIT(A) rejected the appeal on the basis of provisions of Section 249(4)(b) mentioning that assessee has not paid advance tax which was payable and ignored the assessee's Contention that his Income is not taxable hence no admitted Income Tax Liability.

4 That the Honorable CIT(A) has not considered the facts that assessee has deposited Cash in his personal Bank Account by withdrawing it from his joint Account hence no question of Unexplained Income U/s 69A. That the order of Honorable CIT(A) is bad in law as Cash has been deposited from the amount received as Compensation on Compulsory Acquisition which is exempt U/s 10 (37) of Income Tax Act.

5 That the order of Honorable CIT(A) is bad in law as he has not appreciated the fact that Income Tax return was not mandatory being the Assessee's total Income below the Maximum amount which was not chargeable to tax.

6 That the Ld. A.O. has erred in charging Interest U/s 234A, 234B and 234C.

7 That the above grounds are independent and without prejudice to each other.

8 That the appellant seeks leave to add, amend, alter or abandon any or all the above grounds at the time of hearing of the appeal.”

3. At the outset learned counsel for the assessee submitted that the learned CIT(Appeals) erroneously dismissed the appeal in limine on the ground that the assessee had not deposited the requisite advance tax before filing of the first

appeal. Learned counsel contended that the assessee had received compensation on acquisition of agricultural land which is otherwise exempt and no advance tax is payable on such amount. He contended that the issue is squarely covered in favour of the assessee.

4. Learned DR, on the other hand, supported the order of learned CIT(Appeals).

5. I have heard rival contentions and perused the material available on record. The Revenue has not disputed the fact that the amount received was in nature of compensation received in lieu of acquisition of agricultural land. I, therefore, set aside the impugned order and restore the grounds of appeal to the file of learned CIT(Appeals) to decide the issue on merits after giving adequate opportunity of being heard to the assessee. Consequently, grounds are allowed for statistical purposes. Appeal is allowed for statistical purposes.

6. Identical grounds have been taken in ITA no. 1600/Del/2024 for A.Y. 2012-13. Herein also the learned CIT(Appeals) dismissed appeal in limine by observing that assessee had not deposited requisite advance tax before filing of the first appeal. No change in facts and circumstances has been pointed out by learned DR for the assessment year in question. Therefore, following our reasoning for A.Y. 2011-12 mutatis mutandis for A.Y. 2012-13 the order of learned CIT(Appeals) is

set aside and the matter is restored to the file of learned CIT(A) to decide the issue on merits after giving adequate opportunity of being heard to the assessee. Grounds are allowed for statistical purposes. Appeal is allowed for statistical purposes.

7. In the result both the appeals being ITA no. 1599/Del/2024 for A.Y. 2011-12 and ITA no. 1600/Del/2024 stand allowed for statistical purposes.

Order pronounced in open court on 21.08.2024.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

Dated: 21.08.2024.

MP

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**