

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI C. N. PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 1086/Del/2024
(Assessment Year: 2011-12)**

Sandeep Khatana, 646, Village Chapargarh Dankaur, Gautam Buddh Nagar, UP (Appellant) PAN:BPOPK2074J	Vs. ITO, Ward-3(3), Noida (Respondent)
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Assessee by :	Shri Saubhagya Agarwal, Adv Shri V. Rajkumar, Adv
Revenue by:	Shri Pramod Kumar, Sr. DR
Date of Hearing	16/07/2024
Date of pronouncement	28/08/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.1086/Del/2024 for AY 2011-12, arises out of the order of the National Faceless Appeal Centre (NFAC), New Delhi [hereinafter referred to as 'ld. CIT(A)', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1060166301(1) dated 27.01.2024 against the order of assessment passed u/s 147/143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 17.07.2018 by the Assessing Officer, ITO, Ward-3(3), Noida (hereinafter referred to as 'ld. AO').

2. The assessee raised the following grounds before us:-

"1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the addition of Rs.60,00,500/- made by the ITO.

2. *The CIT(A) has erred in facts and in law in upholding the reopening of assessment even though the jurisdictional preconditions for reopening of assessment were not met.*

3. *The CIT(A) has erred in facts and in law in upholding the reopening of assessment even though the reasons for reopening were not provided to the Appellant before passing the assessment order in violation of the binding decision of the Delhi High Court in Sabh Infrastructure Ltd. v. ACIT.*

4. *The CIT(A) has erred in facts and in law in holding that the AO had duly followed the procedure prescribed in GKN Driveshafts.*

5. *The CIT(A) has erred in facts and in law in passing the order in undue haste, without providing a proper opportunity to the Appellant in violation of the principles of natural justice.*

6. *The CIT(A) has erred in law in not appreciating that failure of the A.O. to grant cross examination of parties on whose statements the additions were made is fatal to the case of revenue.*

7. *The CIT(A) has erred in facts and in law in not disposing of the appeal on its merits and ignoring the glaring inconsistencies on record: 7.1. in relying on the order of the AO to sustain the addition even though the amount added had already been returned to the actual owner of the money, the uncle of the Appellant. 7.2. in relying on the order of the AO even though the statement of a witness, Dharamveer Singh has been dismissed as being self-serving, without any basis. 7.3. in relying on the order of the AO even though the evidence filed before the AO was ignored in totality.*

8. *The CIT(A) has erred in facts and in law in upholding the addition of Rs. 60,00,500/- without appreciating that the AO had discarded the statement of the key witness, Dharamveer is interested party, without any basis and without allowing the Appellant to cross examine the witness.*

9. *That the CIT(A) has erred in facts and in law in not appreciating the fact that the reliance of the AO in the self-serving statement of the seller is contrary to all logic.*

10. *That the CIT(A) has erred in facts and in law in sustaining the addition made u/s 69 of the Act without satisfying the ingredients of the same.*

11. *That 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. Ground Nos. 1 and 11 raised by the assessee are general in nature and does not require any specific adjudication.

4. Ground Nos. 2, 3 and 4 were stated to be not pressed by Id AR at the time of hearing and the same is reckoned as a statement made from the bar and accordingly dismissed as not pressed.

5. Ground Nos. 5 to 10 raised by the assessee are only challenging a single addition of ₹60,00,500/- made on account of cash deposits on the ground that sources was not properly explained by the assessee.

6. We have heard the rival submissions and perused the material available on record. It is not in dispute that there were cash deposits of ₹60,00,500/- in bank account by the assessee during the year under consideration. The source for the same was explained by the assessee to have arisen on account of sale of agriculture land. The sale consideration reflected in the registered sale deed on sale of agricultural land was ₹51,50,000/-. The assessee claimed that the agricultural land was sold for Rs. 1,25,09,500/- being the money received as per agreement. It is not in dispute that agricultural land was held by father and uncle of the assessee and the same was sold. It was submitted by the assessee that since his uncle did not have any bank account, the sale consideration received by his uncle in cash was deposited in the bank account held by the assessee. In support of this, assessee filed details of sale consideration received in cash by his father, uncle, filed registered and unregistered agreement to sell, affidavit from the family members, etc before the Id AO. Despite these documents, the Id AO proceeded to make addition of ₹60,00,500/- as unexplained money in the hands of the assessee herein. Before the Id CIT(A), there was no proper representation by the assessee.

7. Both the parties before us fairly agreed that the documents filed by the assessee requires to be re-examined by the Id AO and accordingly it would be fit and appropriate to restore this issue to the file of the Id AO. Considering the same, we restore this appeal to the file of the Id AO for de novo adjudication in accordance with law. Needless to mention that the assessee be given reasonable opportunity of being heard. The assessee is also at liberty to furnish fresh evidences, if any, in support of his contentions. Ground Nos. 5 to 10 raised by the assessee are allowed for statistical purposes.

8. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 28/08/2024.

-Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 28/08/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi