

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 2653/DEL/2024
[Assessment Year: 2012-13]

Selak Ram, Khairpur Gurjar, Gautam Budh Nagar-201306. PAN- ASSPR 4918 A	<u>Vs</u>	Income-tax Officer, Ward-5(3)(3), Gautam Budh Nagar
APPELLANT		RESPONDENT
Appellant by	Shri Shivam Bansal, CA	
Respondent by	Shri Siddharth B.S. Meena, Sr. DR	
Date of hearing	03.09.2024	
Date of pronouncement	03.09.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 27.03.2024, pertaining to the assessment year 2012-13. The assessee has raised following grounds of appeal:

- ‘1. That in facts and circumstances of the case, the CIT(A) has erred in law in rejecting the additional evidence, thereby dismissing the appeal, hence additional evidence filed before CIT(A) may kindly be considered.*
- 2. That in facts and circumstances of the case, the Ld. Assessing Officer has erred in concluding the case by making addition of Rs. 28,50,000/- in the hands of the appellant, hence addition made is liable to be deleted.*

3. *That in facts and circumstances of the case, the Ld. Assessing Officer has erred in initiating and concluding the assessment on the basis of borrowed satisfaction, hence the assessment is liable to be quashed.*
4. *That in facts and circumstances of the case, the Ld. AO erred in law in initiating the assessment proceedings and subsequently completing the same on the basis of mechanical approval u/s 151 of Income Tax Act, 1961 which is not sustainable in law and makes entire assessment as null and void.*
5. *That in facts and circumstances of the case, the Ld. AO erred in law in initiating and completing the assessment proceedings on the basis of invalid reasons to belief which makes entire assessment as null and void.*
6. *That in facts and circumstances of the case, the Ld. AO erred in law in completing the assessment proceedings without obtaining / referring to the base document and documents available in his records which is against the procedure of assessment proceedings, hence addition made is liable to be deleted.*
7. *That in facts and circumstances of the case, the Ld. Assessing Officer has erred in concluding the case without jurisdiction over the matter, hence the assessment is liable to be quashed.*
8. *That in facts and circumstances of the case, the assessment made is illegal and non - est, hence liable to be quashed.”*

2. Facts of the case, in brief, are that as per AIR information the AO noticed that during F.Y. 2011-12 relevant to A.Y. 2012-13 the assessee had deposited cash of Rs. 28,50,000/- in his saving bank account with Syndicate Bank and that the assessee had also not filed his ITR for the relevant assessment year. Therefore, the case was reopened u/s 147 of the Income Tax Act, 1961 (the “Act”). The assessee did not respond to the statutory notices issued by the AO. In response to notice issued u/s 144 of the Act the assessee filed written reply. Considering that the written reply furnished by the assessee was not satisfactory, the AO completed the assessment ex parte to the assessee u/s 144/147 of the Act at Rs. 28,50,000/- by

treating cash deposits of Rs. 28,50,000/- as unexplained money of the assessee and added the same to the income of the assessee. Aggrieved against it assessee preferred appeal before learned CIT(Appeals), who dismissed the appeal and upheld the action of AO. Aggrieved against it the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee submitted that assessee is an agriculturist. During A.Y. 2012-13 he did not have any taxable income except exempt agriculture income and therefore was not required to file his income tax return. During F.Y. 2011-12, relevant to A.Y. 2012-13 assessee had received Rs. 22,00,899/- as compensation on account of acquisition of agricultural land and had also sold agricultural land worth Rs. 22,50,000/- which was exempt from income tax. He submitted that before learned First Appellate Authority the assessee had filed summary of bank statement for A.Y. 2011-12 as also details of source of cash deposit. The learned First Appellate Authority dismissed the assessee's appeal without taking into account the documentary evidence furnished by the assessee on the ground that the same was not filed before AO. He prayed that order of authorities below may be set aside and matter may be restored to the file of AO for decision afresh after considering the documentary evidence furnished by the assessee and after affording reasonable opportunity to the assessee of being heard.

4. On the other hand learned DR supported the order of learned First Appellate Authority.

5. I have heard rival submissions and perused the material available on record. The stand of the assessee is that he is an agriculturist and during A.Y. 2012-13 he did not have any taxable income except exempt agriculture income and therefore was not required to file his income tax return. It is also not disputed that before

learned First Appellate Authority the assessee had filed summary of bank statement for A.Y. 2011-12 as also detail of source of cash deposit which was not taken into account by him while adjudicating the appeal. Therefore, considering the totality of facts of the present case and to be fair to both the parties and in order to sub serve the interests of natural justice, I hereby set aside the orders of authorities below and restore the matter to the file of Assessing Officer for fresh assessment, after verifying the veracity of assessee's stand and affording adequate opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

6. Assessee's appeal is allowed for statistical purposes.

Order pronounced in open court on 3rd September, 2024.

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

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI