

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,
NEW DELHI

BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 945/DEL/2024 [A.Y 2012-13]

Shri Neeraj Dhama
2318/R/3/6, Rajeev Nagar
Gurgaon

Vs.

The Income-tax Officer
Ward -3(1)
Gurgaon

PAN: AIXPD 9437 F

(Applicant)

(Respondent)

Assessee By : Ms. Tanya, Adv
Ms. Shivani, Adv

Department By : Shri Sanjay Kumar, Sr. DR

Date of Hearing : 10.10.2024
Date of Pronouncement : 10.10.2024

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the
NFAC, Delhi dated 03.01.2024 pertaining to A.Y 2012-13.

2. The only substantive grievance of the assessee is the confirmation of addition of Rs. 29,89,717/- being cash deposit in the bank account of the assessee u/s 68 of the Income-tax Act, 1961 [the Act, for short].

3. The assessee has filed an application u/r 29 of the ITAT Rules seeking permission to file additional evidence as the same could not be filed earlier because the need to file the same was advised by the ld. counsel for the assessee during the filing of the appeal before the Tribunal. It is stated that there is no willful default or negligence at earlier stage in omitting to file these documents earlier.

4. Briefly stated, the facts of the case are that information was received by the department that the assessee had made cash deposit amounting to Rs. 27,79,530/- including interest in his bank account maintained with the ICICI.

5. The Assessing Officer was of the opinion that since the assessee had not filed his return of income, the source of cash deposit remains unexplained and treated it as unexplained income of the assessee from undisclosed sources. Accordingly, reason to believe was recorded and

approval from the PCIT was obtained for reopening the case u/s 147 of the Act. Accordingly notice u/s 148 of the Act was issued and served upon the assessee.

6. Neither the assessee attended nor any written submission was filed by the assessee. Various notices were issued, which met the same fate. Final show cause notice issued to the assessee to explain the cash deposit and source also remained uncomplied with.

7. In view of the above, the Assessing Officer made addition of Rs. 27,79,530/- in the absence of explanation of source of cash deposit as undisclosed source of cash deposits. Penalty proceedings were separately initiated u/s 271(1)(c) of the Act for concealment of income.

8. Aggrieved, the assessee went in appeal before the Id. CIT(A) who also dismissed the appeal.

9. Now the further aggrieved assessee is in appeal before us.

10. Before us, the ld. counsel for the assessee prayed for remitting the matter to the Assessing Officer as the additional evidence being filed now needs to be examined to arrive at a decision.

11. Per contra, the ld. DR relied upon the orders of the authorities below.

12. We have heard the rival submissions and have perused the relevant material on record. We find that the assessee has neither appeared nor filed written submissions before the Assessing Officer. Even before the ld. CIT(A), the assessee did not appear to represent its case. However, finding that the assessee has not produced any single documents to substantiate his claim that the total cash deposit was not his own money but cash received out of sale proceeds of goods/articles of artisans which was distributed to the artisans, the ld. CIT(A) rejected the claim and dismissed the ground raised before him. The assessee has now prayed for consideration of additional evidence which could not be filed at the assessment proceedings. We find that due to some family issues the assessee was prevented from filing the evidence. Considering the nature of documents filed u/r 29 of the Rules, the same is admitted.

13. Having considered the rival submissions, we are of the considered opinion that in the interest of justice and fair play, the issue should be restored to the file of the Assessing Officer. The assessee is directed to furnish the original documents as well as additional evidence produced before us for verification and the Assessing Officer is directed to examine the same and decide the issue as per the provisions of law after affording reasonable and sufficient opportunity of being heard to the assessee.

14. In the result, the appeal of the assessee in ITA No. 945/DEL/2024 is allowed for statistical purposes.

The order is pronounced in the open court on 10.10.2024.

Sd/-

[ANUBHAV SHARMA]
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated: 10th OCTOBER, 2024.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	