

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

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.1989/Del/2024
[Assessment Year: 2012-13]**

Amarjit Singh, PO. Rattangarh, Gohana Road, Sonipat, Haryana-131001	Vs	Income Tax Officer, Ward-1, Sonipat, Haryana
PAN-BILPS6132D		
Assessee		Revenue

Assessee by	None
Revenue by	Sh. Sanjay Kumar, Sr. DR

Date of Hearing	16.10.2024
Date of Pronouncement	16.10.2024

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal filed by the assessee is directed against the order dated 27.02.2024 of the Id. Commissioner of Income Tax (Appeals) National Faceless Appeal Centre, Delhi, relating to Assessment Year 2012-13.

2. The grounds of appeal raised by the assessee are as under:-

1. The Ld. CIT(A) has ignored the facts & circumstances of the case

The Ld. CIT(A) has erred in passing the order by not considering the facts & circumstances of the case that appellant is an illiterate farmer & he owns 10 acres (approx) of agriculture land during the A. Y 2012-13, from which he was earning agriculture income of Rs 4,00,000/- to Rs 4,50,000/- (Net) per year and has sold a small piece of agricultural land having area around 3 Acres 4 Kanals & 9 Marla on dated 15.10.2008 for Rs 26,60,000/-

2. The impugned order is invalid, and against the Principle of natural justice.

The Ld. CIT(A) has erred in passing the order by not giving effect of cash deposits of Rs 26,67,000/- on different dates was out of cash withdrawals made by the appellant in the year under consideration & cash withdrawals made in the previous years starting from the year 2008 to 2011 & agriculture income earned Rs 4,00,000/- to Rs 4,50,000/- per year.

3. Non-Consideration of Evidences

The Ld. CIT(A) has ignored the evidence submitted during the appeal proceedings such as details of cash withdrawals & cash deposited date wise along with bank statements already submitted by the appellant on dated 25.01.2024, however the same were not considered.

4. The order passed by the Ld. CIT(A) is arbitrary, illegal and bad in law.

The Ld. CIT(A) has erred in passing the impugned order u/s 250 by considering Rs 26,67,000/- cash deposited in 2 bank accounts as unexplained money u/s 69A however the appellant had already explained the source that cash deposited on different dates was out of cash withdrawals made in the year under consideration and cash withdrawals made in the previous year's cash on different dates & out of agriculture income (Exempt) earned of Rs4,00,000/- to Rs 4,50,000/- every year by the appellant.

5. The Ld. CIT(A) did not consider the relevant judgements relied upon.

The Ld. CIT(A) has erred in passing the order by not considering the relevant judgements passed by the Hon'ble HC on which appellant relied upon during the appeal proceeding.

6. Invalid rejection of additional evidence under Rule 46A of income tax rules 1962.

The Ld. CIT(A) has erred in rejecting additional evidence submitted under Rule 46A of the income tax rule, 1962 by the appellant on the ground that no proper reason given for non-submission of the documents before the AO, however the appellant had already submitted that appellant is an illiterate farmer & was not aware of the law & notices issued thereunder & its consequences, therefore inadvertently did not complied with the notices issued under assessment proceeding.

7. The Ld. CIT(A) has erred in not considering the fact that faceless issue of notices through ITBA portal was introduced

during the year under consideration and the appellant was not aware of the same due to which failed to file the responses to the notices issued through ITBA Portal.”

3. Brief facts of the case:- The assessee is an individual. As per the individual transaction statement information available on actionable information management system of the ITD, it was found that cash of Rs.22,30,000/- was deposited by the assessee in his SB Account No.358502010052395 maintained with Union Bank Of India, old Rohtak Road, Sonipat during the financial year 2011-12. The AO issued notice u/s 133(6) of the Act to furnish a copy of ITR for AY 2012-13, source of cash amount deposited in bank account, bank statement and details of immovable property purchased and sold during the financial year 2011-12 to which no response was received from the assessee. Thereafter, the AO issued a notice u/s148 of the Act on 29.03.2019 which was duly served on the assessee. However, no return of income was filed in response to this notice within the stipulated period of 30 days. Thereafter, a notice u/s 142(1) was also served upon the assessee on 27.08.2019 requesting to furnish the relevant details on or before 05.09.2019, which again was not complied. During the course of assessment proceedings, the AO also found that in addition to Rs.22,30,000/- deposited in cash in the bank account maintained with UBI, the assessee had also made cash deposits amounting to Rs.4,37,000/- in the bank account maintained with HDFC Bank during Financial Year 2011-12. Under the circumstances, the AO issued a show

cause notice dated 18.11.2019 proposing to pass an order u/s. 144/147 of the Act making the following additions:-

- i. Cash amounts deposited in his bank account
- ii. Interest income credited by bank in his account.
- iii. The narration of bank entries has not been given. Therefore, the assessee was asked as to why the amounts credited in his bank account through cheque/RTGS/transfer entries may not be added to his taxable income.

3.1. There was again no compliance from the assessee. Therefore, the AO finalized the assessment u/s. 144/147 of the Act vide an order dated: 27.11.2019 for A.Y.2012-13 at the assessed income of Rs.28,55,560/- by making the following additions.

Returned income as per ITR filed on 31.03.2013 Rs.1,77,610/- Addition:		
i	Unexplained cash deposits in bank account of the assessee	Rs.26,67,000/-
ii	Interest income credited by the bank in the account of the assessee	Rs.10,950/-
Total		Rs.28,55,560/-

4. Against the said order, the assessee filed an appeal before the Ld. CIT(A). In the appellate proceedings, the assessee submitted that he had sold a rural and agricultural land on 15.10.2008 for Rs.26,60,000/- and submitted the copy of sale deed. It was submitted that the assessee had this cash in hand for purchase of property but when the deal did not materialize, he deposited the amount in the bank. The assessee further submitted that the

benefit of cash withdrawal from bank amounting to Rs.7,75,100/- may also be given because when the assessee had not deposited the cash in one time, therefore, the benefit of cash withdrawal for a period should also be allowed to him. The assessee also submitted that he was prevented by reasonable cause to submit these documents and since all these documents goes to the basic root of the case and requested that these documents may kindly be accepted as additional evidence. The same was rejected by the Ld. CIT(A) on the ground that in absence of proper reason for non-submission of information before the AO, the same could not be accepted at this juncture. Further, the ld. CIT(A) did not accept the plea of the assessee on merits as per his observation in para no.4.3.1 and dismissed the appeal of the assessee as per his findings in para 4.3.2, which are reproduced as under:-

“4.3.1 Without prejudice to the above, it is seen from the submissions that the appellant had sold agricultural land on 28.08.2008. The bank account copy of Union Bank submitted does not speak about the deposit of the sale consideration received from the sale of agricultural land. As on 8.11.2008 the opening balance was Rs. 15,57,732/-. In the Financial year 2012-12 relevant to the A.Y. 2012-13, there are only deposits in the bank account. The appellant ought to have given the synopsis of deposits in the bank account and the corresponding withdrawal. The appellant had not provided such details. Therefore, the contention of the appellant in this regard is rejected. Against Rs. 26,77,950/- the appellant informed that out of cash withdrawals. However he has not explained the sources of being having at Bank to withdraw the money. Further, there is no reason to withdraw cash rather than transferred by way of cheque / other modes. Filing confirmation and bank account copies are not enough to

establish that the transaction was a real transaction. As the appellant had not offered any explanation with regard to cash deposit, the same remained un-established. Hence, I am of the firm opinion that the AO had rightly made the addition of cash deposits appearing in the bank account of the appellant as unexplained cash credits.

4.3.2 In view of the above, I do not find any reason to interfere in the order passed by the assessing Officer under sec 144 r.w.s. 147 of the | T Act dated 27.11.2019 for the assessment year 2012-13 in respect of addition of Rs. 26,77,950/- made as unexplained cash deposits. Therefore, the grounds of appeal are dismissed.”

- 5 Against the said order, the assessee is in appeal before us.
6. On the perusal of the order, we find that the ld. CIT(A) decided the appeal without admitting the additional evidences submitted by the assessee without giving any opportunity to explain the circumstances, in which the said additional evidence could not be submitted before the AO, which was in violation of the principle of natural justice. We also find that the ld. CIT(A) did not adjudicate about the details of date-wise cash withdrawals and cash deposited and also about his claim that the cash withdrawals made on different dates was out of agricultural income (exempt) earned of Rs.4 lakhs to Rs.4,50,000/- every year by the assessee as contended in ground no.2 & 4 of the appeal.
7. The ld. DR strongly supported the orders of the authorities below.

8. We have heard the ld. DR and perused the material available on record. In this case, the assessee did not appear before the Ld. CIT(A) or Assessing Officer despite opportunities given. However, the assessee during the appellate proceedings, filed a written submission claiming that he had sold a rural agricultural land on 15.10.2008 of Rs.26,60,000/- for which the copy of the sale deed was also attached and claimed that the same was the source of the cash deposit in the two bank accounts subject matter of dispute in this case. The above claim and the documents submitted goes to the root of the matter and the rejection of the same by the Ld. CIT(A) summarily without giving an opportunity of being heard to the assessee is not justified in the given facts of the case. Therefore, the Ld. CIT(A) is directed to admit the same for the dispensation of justice in the case of the assessee so that his claim is examined and if required verified by the AO or by himself as decided by him. Further, he has also not examined and made any comments about the claim of the assessee that the cash withdrawals made on different dates was out of agricultural income (exempt) earned of Rs.4 lakhs to Rs.4,50,000/- every year by the assessee. Therefore, considering the facts in entire perspective and in order to subserve the interests of justice and to provide an opportunity to the assessee to effectively represent his case, the order of learned CIT(A) is set aside and the matter is restored to the file of Ld. CIT(A) for fresh

adjudication after providing reasonable opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

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

Order pronounced in the open court on 16th October, 2024.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Dated 16.10.2024.

Shekhar

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi,