

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

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

**ITA No. 2957/DEL/2024
[Assessment Year: 2012-13]**

Radhey Kishan Gupta, C-1054-1, Gurgaon, Sushant Lok, Phase-1, Gurgaon-122001. PAN: ADUPG 5595 M	<u>Vs</u>	Income-tax Officer, Ward-54(3), Delhi.
APPELLANT		RESPONDENT
Appellant by		Shri Vikash Sharma, Adv.
Respondent by		Shri Yogesh Sharma, Sr. DR
Date of hearing		05.11.2024
Date of pronouncement		14.11.2024

ORDER

PER SATBEER SINGH GODARA, JM:

This assessee’s appeal for assessment year 2012-13 arises against DIN and order no. ITBA/NFAC/S/250/2023-24/1063333114(1), dated 25.03.2024, passed by the learned CIT(A)/National Faceless Appeal Centre (NFAC), Delhi, in appeal no. CIT(A), Delhi-18/10271/2019-20, in proceedings u/s 250 of the Income-tax Act, 1961, hereinafter referred to as the ‘Act’.

2. Heard both the parties at length. Suffice to say, it emerges during the course of hearing that assessee's first and foremost substantive ground challenges both the lower authorities' action in invoking section 40A(3) and disallowance of Rs. 2 lakh which represents his cash payments made for purchase of immovable property. The Revenue could hardly dispute the clinching fact that the impugned provision comes into play only in case of revenue expenditure deduction claimed for the purpose of computing the assessee's business income which is not the case here. The impugned disallowance stands deleted in very terms therefore.

3. Coming to the assessee's second substantive ground, regarding correctness of rental income amounting to Rs. 13,03,152/- assessed by both the lower authorities, learned counsel quotes section 24(a) of the Act that even the standard deductions @ 30% has not been granted, which has gone undisputed from the Revenue side. I, accordingly, direct the learned Assessing Officer to recompute the assessee's impugned rental income after granting the forgoing standard deduction in very terms. This ground is treated as partly allowed.

4. Lastly comes the assessee's third substantive ground challenging both the lower authorities' action in adding cash deposits of Rs. Five lakhs as unexplained during the course of scrutiny as upheld in the lower appellate stage.

5. Learned counsel's case is that this amount of Rs. 5,00,000/- had been received from M/s Omax Construction Ltd. A perusal of the lower appellate discussion in para 5.2 indicates that the assessee could not prove the said receipts in cash coming from M/s Omex Construction Ltd. The fact also remains that such cash accumulation arising from past savings in assessee's case could also not be together ruled out. I accordingly hold, in these peculiar facts and circumstances, that a lump sum addition of Rs. Two lakhs would be just and proper with a rider that the same shall not be treated as a precedent. The Revenue's vehement contention stands rejected to this limited extent on all these three issues. The assessee gets relief of Rs. Three lakh. No other ground or argument has been raised during the hearing.

6. This assessee's appeal is partly allowed in above terms.

Order pronounced in open court on 14.11.2024.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

