

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

**BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No.779/Del/2024, A.Y.2012-13

Sh. Surinder Singh S/o. Dy. No. 351, VPO-Kalron, Gharaunda, Karnal, 132001 PAN: BZDPS2760J	Vs.	ITO Ward- 4, Karnal
(Appellant)		(Respondent)

Appellant by	Sh.Rohit Tiwari Ms. Tanya, Advocate
Respondent by	Ms. Maninder Kaur, Sr. DR

Date of Hearing	25/09/2024
Date of Pronouncement	29/11/2024

ORDER

PER AVDHESH KUMAR MISHRA, AM

This appeal for the Assessment Year (hereinafter, the 'AY') 2012-13 filed by the assessee is directed against the order dated 31.08.2023 passed by the Commissioner of Income Tax (Appeals), Karnal [hereinafter, the 'CIT(A)'].

2. Following grounds are raised in this appeal: -

"1. That on the facts & in the circumstances of the case and in law, the order pass by the Ld. Commissioner of Income Tax (Appeals) CTT(A) [Ld. CIT(A)] is wrong and bad in law.

2. That on the facts & in the circumstances of the case and in law, the Ld. CIT(A)/AO erred in initiating reassessment proceedings under section 147 of the Act without proper reasons for reopening the assessment proceedings and without satisfying the statutory requirements of section 147 of the Act.

3. That on the facts and circumstances of the case, the Ld. CIT(A) has erred in confirming the action of the Assessing Officer and dismissed the appeal of the assessee for want of non- prosecution without adjudicating on the merits of the case.

4. Without Prejudice to the above grounds of appeal, the Ld. AO/CIT (A) has further erred in making of addition of Rs. 2,07,76,950/- being the amount deposited in the bank out of the proceeds of sale of agricultural produce and agricultural land as unexplained cash deposit under Section 69A of the Act which is arbitrary and without any legal justification.

5. That the Ld. CIT(A) erred both in fact and in law by not granting sufficient opportunity to the appellant to be heard, thereby violating the principles of natural justice and prejudicing the appellant's interests, rendering the order unsustainable and meriting annulment.

That the appellant reserves its right to add, alter, amend or withdraw any ground of appeal either before or at the time of hearing of this appeal.”

3. The brief facts of the case for deciding this appeal are that the appellant/assessee, a non-filer of the Income Tax Return (hereinafter, the 'ITR'), is an agriculturist. The Assessing Officer (hereinafter, the AO), based on the information that the assessee who deposited cash of Rs.1,15,67,000/- in his saving bank account in the Financial Year 2011-12 had not filed any ITR of the relevant year, issued notice dated

27.03.2019 under section 148 of the Income Tax Act, 1961 (hereinafter, the 'Act') after inferring that the said cashdeposit of Rs.1,15,67,000/- was unexplained. During the assessment proceedings, it also came to the notice of the AO that the appellant/assessee had made deposits aggregating to Rs.2,07,76,950/- in his bank accounts. Since the appellant/assessee had never ensured any compliance during the assessment proceedings; therefore, the assessment was completed ex-parte, taxing Rs.2,07,76,950/- as unexplained deposit in the bank accounts, under section 144/147 of the Act. The Ld. CIT(A) dismissed the appeal of the appellant/assessee due to non-prosecution.

4. The Ld. Counsel submitted that the Ld. CIT(A) dismissed the appeal of the assessee for want of non-prosecution. Further, the Ld. CIT(A) did not adjudicate the case on merit and also did not decide each ground separately. It was contended that the entire deposit of Rs.2,07,76,950/- was nothing but the proceeds of sale of agricultural produce and agricultural land; therefore, the same could not be assessed as unexplained deposit. Further, the Ld. CIT(A) did not grant sufficient opportunity of being heard to the appellant/assessee.

5. On the other hand, the Ld. Sr. Departmental Representative (hereinafter 'Sr. DR'), with the help of facts mentioned in the assessment order and appellate order submitted that reasonable opportunities of being heard were provided to the appellant/assessee by the AO and the Ld. CIT(A)

but the appellant/assessee tactfully ensured noncompliance to avoid the proper investigations. Hence, she prayed for upholding of orders of the lower authorities.

6. We have heard both the parties at length and have perused the material available on record. In the interest of justice and facts in entirety, we are of the considered opinion that the appellant/assessee deserves reasonable opportunity of being heard to make shortcomings or non-compliances. In view thereof, without offering any comment on merit of the case, we deem it fit to set aside the impugned order and remit the matter back to the file of the AO for de-novo consideration. The appellant/assessee should ensure compliances during the set-aside proceeding before the AO. The AO is also required to provide reasonable opportunities of being heard to the appellant/assessee before deciding the case on merit.

7. In the result, the appeal is allowed for statistical purpose.

Order pronounced in open Court on 29th November, 2024

Sd/-

**(VIKAS AWASTHY)
JUDICIAL MEMBER**

Sd/-

**(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

Dated:29/11/2024

Binita, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT

4. CIT(Appeals)
5. Sr. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI