

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

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. M. Balaganesh, Accountant Member**

ITA No. 86/Del/2024 : Asstt. Year : 2012-13

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| Manoj Kumar Sharma, H.No. B-212, Nandgram, Meerut Road, Ghaziabad, Uttar Pradesh-201002 (APPELLANT) | Vs | Income Tax Officer, Ward-1(4), Ghaziabad, U.P.-201003 (RESPONDENT) |
| PAN No. BWDPS7969C | | |

**Assessee by : Ms. Sweety Kothari, CA
Revenue by : Sh. Akhilesh Kumar Yadav, Sr. DR**

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| Date of Hearing: 05.12.2024 | Date of Pronouncement: 12.12.2024 |
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ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2012-13, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2023-24/1057661669(1) dated 03.11.2023 in proceedings u/s 147 r.w.s. 144 of the Income Tax Act, 1961 (in short "The Act").

2. Heard both the parties at length. Case file perused.
3. The assessee raises the following substantive grounds in the instant appeal:

"1. The assessing officer erred in law and on facts in issuing notice u/s 148 of the Act by recording reasons for reopening without application of mind and without complying with all the conditions laid down by law. Thus, the notice issued is bad in law and the assessment framed on the basis of such notice should be cancelled.

2. The assessing officer erred in law and on facts in issuing notice u/s 148 of the Act on the basis of mechanical

sanction granted by the Jurisdictional CIT. Thus, the notice issued is bad in law and the assessment framed on the basis of such notice should be cancelled.

3. The CIT(A) erred in law and on facts in confirming the addition of Rs. 26,31,750/- being the amount of sale consideration pertaining to three brothers of the appellant received on sale of the ancestral land and deposited in the bank account of appellant ignoring that the facts and evidences placed on record. Thus, the addition so made should be deleted.

4. The CIT(A) erred in law and on facts in confirming the addition of Rs. 13,50,000/- being cash deposited in the bank account of the appellant on various dates ignoring the submissions and evidence placed on record. Thus, the addition so made should be deleted."

4. Learned counsel is indeed very fair at the outset in not pressing for the assessee's former twin substantive grounds. Rejected accordingly.

5. Next come the assessee's latter twin substantive grounds challenging both the learned lower authorities action adding cash deposits of Rs.26,31,750/- and Rs.15,50,000/-; respectively, after ignoring his explanation that the same represented cash sale consideration on land transactions. Faced with this situation, learned departmental representative vehemently argues that both the lower authorities have rightly made the impugned addition in assessee's hands once he fails to explain source of the impugned cash deposits forming subject matter of addition before us.

6. We have given our thoughtful consideration to the assessee's and Revenue's respective vehement submissions and find no reason to sustain the impugned addition. We make it clear first of all that there is no dispute regarding the assessee and his brothers to have sold/transferred their lands in the relevant previous year. His case is that he himself had taken the entire sale price in cash and deposited in the bank account.

The Revenue's stand on the other hand is that such a benefit could only be granted *qua* the assessee's share than the entire on money which has to be apportioned *qua* the respective shareholders. We are of the considered view that till the time the learned departmental authorities do not themselves examine the corresponding family members bank account *qua* the remaining cash consideration, the concerned assessee could not be altogether denied the credit thereof as such an instance of cash deposits made in a single vendor's hands could very well be a common practice in society.

7. The assessee's latter substantive ground of Rs.13,15,000/- is concerned (supra), we quote Smt. Malini Ramnath Rele vs. ITO (1994) 49 ITD 43(MUM) (TM) to conclude that this amount's source is very well attributable to his land transactions only. We thus accept the assessee's instant third and fourth substantive ground in very terms.

7.1 No other ground or arguments has been pressed before us.

8. This assessee's appeal is partly allowed in above terms.
Order Pronounced in the Open Court on 12/12/2024.

Sd/-

(M. Balaganesh)
Accountant Member

Dated: 12/12/2024

Sd/-

(Satbeer Singh Godara)
Judicial Member

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR