

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

आ.अ.सं./I.T.A No.3060/Del/2024

निर्धारणवर्ष/Assessment Year: 2012-13

Devindra 136, Village Sadarpur, Ghaziabad, Uttar Pradesh.	बनाम Vs.	Income Tax Officer Ward-1(2), Ghaziabad.
PAN No. AOJPD4575N		
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Shri M.P. Rastogi, Adv. & Shri Shivam Malik, Adv.
राजस्वकीओरसे /Revenue by	Shri Yogesh Sharma, Sr. DR

सुनवाईकीतारीख/ Date of hearing:	04.11.2024
उद्घोषणाकीतारीख/Pronouncement on	13.12.2024

**आदेश /ORDER**

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi dated 25.04.2024 for the AY 2012-13. Assessee in his appeal raised the following grounds: -

1. "That the assumption of jurisdiction u/s 147/148 of the Income Tax Act, 1961 (the Act) by the Assessing Officer is arbitrary, invalid and bad in law;
2. That there was no reason to believe as contemplated u/s 147/148 of the Act and consequently the assumption of jurisdiction to proceed u/s 147/148 is arbitrary, unjust and bad in law;

3. *That there was no valid material available with the Assessing Officer to commence reassessment proceedings u/s 147/148 of the Act and accordingly the reassessment proceeding so commenced is arbitrary, unjust and bad in law;*
4. *That the approval as granted by the prescribed authorities u/s 151 of the Act is not in accordance with law and consequently the assumption of jurisdiction to commence reassessment proceedings u/s147/148 of the Act is invalid and bad in law;*
5. *That the addition of Rs.20 lakhs, being the amount deposited in savings bank account, made out of known sources, is arbitrary, unjust and bad in law;*
6. *That the assessee denied his liability to pay interest charged u/s 234B/234C and 234A of the Act.*
7. *That the above grounds of appeal are independent and without prejudice to one another.”*

2. The Ld. Counsel for the assessee at the time of hearing submitted that the assessee filed application under Rule 29 of ITAT Rules for admission of additional evidence. The Ld. Counsel submits that the assessee is an agriculturist and was carrying on agricultural operations along with his father Sensarpal on the ancestral agricultural land. The Counsel submits that during the year under consideration, the father of the Assessee Sensarpal had agreed to sell half portion of agricultural land having Khasra No. 237 measuring 0.4455 hectares of the agricultural land to Mr. Swatantra Kumar Sharma, Mr. Kapil Nagar and Mr. Gaurav Joshi for a sum of

Rs. one crore and had received an advance of Rs.45,10,000/-. He submits that as per the initial understanding, the vendees had prepared the agreement showing an advance of Rs.20,00,000/-, but on insistence by Sensarpal before getting such agreement registered, the vendees had also agreed to pay further amount of Rs.25,10,000./- on the date of agreement itself, for which a separate receipt was issued. Ld. Counsel submits that out of the aforesaid amount of Rs.45,10,000/-, an amount of Rs.24,77,000/- was deposited in the bank account of Sensarpal maintained by same bank and the remaining balance of Rs.20,00,000/- was deposited in the bank account of Devindra the Assessee who is the son of Sensarpal.

3. Ld. Counsel submits that on account of cash deposit in the bank account of Sensarpal and Devindra both, notices u/s 148 of the IT Act were issued and in the case of Sensarpal, the Assessing Officer accepted the source of deposits in bank account and completed the assessment on the income returned vide order dated 24th December 2019. Ld. Counsel submits that in the case of the Assessee, the Assessing Officer did not accept the Assessee's explanation and made addition of Rs.20,00,000/- u/s 69 of IT Act.

4. Ld. Counsel submits that the Assessing Officer did not accept the total advance amounting to Rs.45,10,000/- received against the sale of agricultural land in absence of any confirmation from the vendees. Therefore in order to prove that the actual advance amount against sale of land was Rs.45,10,000/-, the supplementary receipt/confirmation made between Sensarpal and the vendees confirming the payment of total advance amounting to Rs.45,10,000/- is now furnished as additional evidence. The aforesaid receipt was neither further required by the CIT(Appeals)/National Faceless Appeal Centre nor produced by the then Counsel under some misconception and the appellant being an agriculturist was not aware about the taxation laws. Hence the admission of the said receipt is all the more necessary to dispose of the above appeal, more particularly except agricultural operational carried out on the ancestral land along with the father Sensarpal, the Assessee has no other source of income at all. It is, therefore, prayed that the above receipt may kindly be admitted and considered to explain the source of deposit in the bank account.

5. The Ld. Counsel submits that the sale consideration received by the father of the assessee on sale of agricultural land was partly deposited in the bank account of the father and partly in the bank

account of the assessee and as a matter of fact the Assessing Officer accepted the cash deposit in the case of father of the assessee. Ld. Counsel submits that as the additional evidence goes to the root of the matter the same may be admitted and considered for adjudication.

6. On hearing both these parties considering the submissions and the fact that the AO partly accepted the cash deposits in assessee's father's hand the additional evidence is required to be verified by the AO. Accordingly the additional evidence is admitted and this appeal is restored to the file of the AO who shall examine the issue afresh in the light of the additional evidence filed by the assessee, after providing adequate opportunity of being heard to the assessee.

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

Order pronounced in the open court on 13/12/2024

Sd/-  
(C.N. PRASAD)  
JUDICIAL MEMBER

Dated: 13/12/2024

*\*Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT  
(DR)/Guard file of ITAT.

**By order**

**Assistant Registrar, ITAT: Delhi Benches-Delhi**