

**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. 3835/Del/2024 : Asstt. Year : 2012-13**

Mahesh Chand Sharma, 2-1/896, New Shivpuri, Hapur, Uttar Pradesh-245101 (APPELLANT)	Vs	Income Tax Officer, Ward-2(3)(4), Hapur, U.P.-245101 (RESPONDENT)
<b>PAN No. AIJPS9843A</b>		

**Assessee by : None  
Revenue by : Sh. Akhilesh Kumar Yadav, Sr. DR**

<b>Date of Hearing: 05.12.2024</b>	<b>Date of Pronouncement: 13.12.2024</b>
------------------------------------	--

**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/250/2024-25/1065874993(1) dated 20.06.2024 in proceedings u/s 144 of the Income Tax Act, 1961 (in short "The Act").

2. Case called twice. None appears at the assessee's behest. It is accordingly proceeded *ex-parte*.

3. Mr. Yadav takes us to the assessee's following substantive grounds raised in the instant appeal:

*"1. That reasons recorded u/s 148 are not correct and proper therefore AO did not have reason to believe that income of assessee escaped assessment therefore the notice u/s 148 is void ab initio hence assessment proceeding deserve to be quashed.*

2. *That AO did not issue show cause notice u/s 144 before making the addition therefore action of completing the assessment u/s 148 is against the law hence assessment order deserve to be quashed.*

3. *That AO did not consider the evidence filed by the assessee and on the facts and circumstances of the case the addition of Rs 60,00,000.00 deserves to be deleted.*

4. *That proper opportunity of hearing was not given to assessee which is against the principle of natural justice therefore the assessment is liable to set aside.*

5. *Without prejudice to above the AO had in his possession knowledge that assessee was having 1/3rd share in the cash deposited in the SB A/c therefore the AO erred in the law and facts of the case treating all the cash deposited into the Bank as his income u/s 69."*

4. The Revenue's vehemently contends during the course of hearing that both the lower authorities have rightly made the impugned section 69 addition of unexplained investment in assessee's hands amounting to Rs.60,00,000/-, in the course of assessment framed on 30.12.2019 as upheld in the lower appellate order. Mr. Yadav seeks to buttress point that not only the learned Assessing Officer had framed his assessment *ex-parte* u/s 144 but also the very factual position continued in the lower appellate proceedings as well and therefore, we ought to affirm the impugned addition.

5. We have given our thoughtful consideration to the assessee's foregoing pleadings and Revenue's vehement contentions in support of the impugned addition. We find no reason to sustain the same. A perusal of the case file indicate that the assessee had infact made cash deposits of Rs.70,69,000/- and Rs.1,59,88,000/-; aggregating to Rs.2,29,66,000/-, in F.Y. 2011-12 and 2012-13, respectively. We are undisputedly dealing with the assessee's case in the former F.Y. 2011-12 involving the impugned assessment year

2012-13. We further clarify as a matter of abandoned caution that even the learned assessing authority in paragraphs 5.1 and 5.12 of its impugned assessment discussion does not dispute that the assessee along with his brothers/family members had made various land transactions involving residential plots converted from agricultural lands during the relevant period and collected cash advances as well. This being the clinching fact emerging from the case file, the only inference which could be drawn is that the assessee's cash deposits are infact part of his own money derived from sale of his said plots along with his other family members which could not be treated as unexplained u/s 69 of the Act in light of (1994) 49 ITD 43 (Bombay) (TM) Mrs. Malini Ramnath Rele vs. ITO. We adopt the very analogy herein to delete the impugned addition.

6. This assessee's appeal is allowed in above terms.  
Order Pronounced in the Open Court on 13/12/2024.

Sd/-

**(M. Balaganesh)**  
**Accountant Member**  
**Dated: 13/12/2024**

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**