

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

Before Sh. Satbeer Singh Godara, Judicial Member

ITA No. 2853/Del/2024 : Asstt. Year: 2012-13

Nakul Tyagi, Village Doami, Tehsil-Hapur, Swarg Ashram Road, Hapur, U.P.-245101 (APPELLANT)	Vs	Income Tax Officer, Ward-2(3)(4), Hapur, U.P. (RESPONDENT)
PAN No. AIEPT4534E		

**Assessee by : Sh. Paramjeet Singh, CA
Revenue by : Sh. Sanjay Kumar, Sr. DR**

Date of Hearing: 07.01.2025	Date of Pronouncement: 07.01.2025
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ORDER

This assessee's appeal for Assessment Year 2012-13, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2024-25/1063933810(1) dated 05.04.2024, in proceedings u/s 144 of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties at length. Case file perused.
3. It emerges during the course of hearing that both the learned lower authorities have added the assessee's cash deposits of Rs.33,15,600/- as unexplained u/s 69 of the Act, in the course of assessment framed on 30.12.2019, as upheld in the *ex-parte* lower appellate discussion.

4. The Revenue could hardly dispute the clinching fact emerging from the case file that the CIT(A)/NFAC herein has not decided the assessee's explanation attributing source of the impugned cash deposits as advances received in plot development by his parents after conversion of the agricultural lands to stock-in-trade etc. It is further noticed that the learned Assessing Officer himself had partly accepted the assessee's case to the extent of Rs.16,86,000/- as the only issue herein is the remaining cash deposits in his hands.

5. Faced with this situation, learned counsel submits that on account of various communication gaps, the assessee could not file a detailed reconciliation of the plot advances vis-à-vis the cash deposits made; and, in view of the fact that the CIT(A)/NFAC has proceeded *ex-parte* herein, he may be afforded one more effective innings before the Assessing Officer. I find merit in the assessee's instant last argument as given the fact that there is no speaking adjudication as contemplated u/s 250(6) of the Act in the lower appellate proceedings, larger interest of justice would be met in case the assessee's instant appeal is restored back to the Assessing Officer for his afresh appropriate adjudication, within three effective opportunities subject to a rider that taxpayer shall

plead and prove the case at his own risk and responsibility, in consequential proceedings. Ordered accordingly.

6. This assessee's appeal is allowed for statistical purposes.

Order Pronounced in the Open Court on 07/01/2025.

Sd/-
(Satbeer Singh Godara)
Judicial Member

Dated: 07/01/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR