

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DEHRADUN “SMC” BENCH, DEHRADUN**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.174/DDN/2024
Assessment Year: 2016-17

Bhawana Agarwal, 3/3, Race Course, Dehradun	Vs.	NFAC-Delhi
PAN :AAZPA2029C		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. A.S. Rana, Sr. DR

Date of hearing	21.03.2025
Date of pronouncement	21.03.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2016-17, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1065098749(1), dated 24.05.2024 involving proceedings under sections 144 r.w.s. 263 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

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

3. We next note with the able assistance coming from the Revenue side that the learned Assessing Officer had in fact framed his assessment on 25th March, 2022, inter alia, making three additions i.e. agricultural income, exemption declined to the extent of Rs. 25,55,250/-, gift claim from husband of Rs.9,00,000/- followed by section 56(2)(vii)(b) addition of Rs.29.58 lakhs; respectively, totaling to Rs.64,13,250/-. And that the CIT(A)'s lower appellate discussion has accepted the assessee's net agricultural income of Rs.7,66,575/- only and upheld the latter twin additions.

This is what leaves the assessee aggrieved.

4. We have given out thoughtful consideration to the assessee's pleadings all along and the Revenue's vehement contentions reiterating their respective stands. Coming to the first and foremost issue of agricultural income claim, the assessee appears to have filed a letter dated 18.12.2012 issued by the National Horticultural Board, stating award of subsidy in horticulture cultivation in poly houses, which has been accepted as an agricultural activity by the learned lower authorities.

5. That being the case, we are of the considered view that the assessee has successfully discharged her onus in principle except the fact that she could not plead and prove all the relevant corresponding receipts in relevant financial year. Be that as it may, we are of the considered view in this factual backdrop that a lump sum disallowance/addition of Rs. one lakh only would be just and proper with a rider that the same shall not be treated as a precedent. The Assessing Officer's action making the impugned addition of Rs.20,81,495/- stand deleted to the extent of Rs.19,81,495/- in other words. Necessary computation shall follow as per law.

6. Next comes the second issue between the parties regarding the assessee's gift claim of Rs.9,00,000/-, which stand declined in both the lower appellate proceedings.

7. Learned departmental representative could hardly dispute that even the lower appellate discussion in paras 6.5 to 6.7 makes it clear that not only the date of withdrawal/re-deposit in both the husband's and wife's account are the same but also her husband has filed his ITR and confirmation to the very clinching effect. We accordingly conclude that the learned lower authorities have erred

in law and on facts in disallowing the assessee's gift claim of Rs.9,00,000/- as to have been received from her husband on mere conjecture and surmises. This addition of Rs.9,00,000/- stands deleted in entirety therefore.

8. Lastly comes section 56(2)(vii)(b) addition of Rs.29.58 lakhs representing the difference between actual purchase price of Rs.12 lakhs vis-à-vis corresponding stamp value of the asset coming to Rs.41.58 lakhs, respectively. The Revenue could hardly dispute that there is no finding either in the assessment order or in the lower appellate discussion that the assessee had in fact purchased or received a capital asset so as to trigger the applicability of the impugned statutory provisions going by section 56(2)(vii)(b) Explanation (d)(i) of the Act. That being the case, we find no reason to sustain the instant last addition as well which is hereby deleted. Ordered accordingly.

9. This assessee's appeal is partly allowed.

Order pronounced in the open court on 21st March, 2025

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 21st March, 2025.

RK/-

Copy forwarded to:

1. Appellant

2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi