

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AGRA

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**1. आयकरअपीलसं./ ITA No. 29/Agr/2024
(निर्धारणवर्ष / Assessment Year:2012-13)**

And

**2. आयकरअपीलसं./ ITA No. 30/Agr/2024
(निर्धारणवर्ष / Assessment Year:2015-16)**

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| Shri Neeraj Chahar Village-Kakua, Gwalior Road, Agra. | बनाम/ Vs. | Income-tax Officer, Ward 2(1)(3), Agra. |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AKRPC-3313-P | | |
| (अपीलार्थी/ Appellant) | : | (प्रत्यर्थी / Respondent) |

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| अपीलार्थीकीओरसे/ Appellant by | : | Sh. Rakesh Gupta, Adv. – Ld. AR |
| प्रत्यर्थीकीओरसे/Respondent by | : | Sh. Shailender Shrivastava – Ld. Sr. DR |

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| सुनवाईकीतारीख/Date of Hearing | : | 20-02-2025 |
| घोषणाकीतारीख /Date of Pronouncement | : | 22.04.2025 |

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by assessee for Assessment Years (AY) 2012-13 & 2015-16 arises out of separate orders of first appellate authority. First, we take up appeal for AY 2012-13 which arises out of an order passed by learned Commissioner of Income Tax (Appeals), NFAC, Delhi [CIT(A)] on 30-11-2023 in the matter of an assessment framed by Ld. AO u/s144 on 29-11-2019. Having heard rival submissions, our adjudication would be as under.
2. From case records, it emerges that the case was scrutinized in the background of the fact that the assessee deposited Rs.24 Lacs in its savings bank account. The assessee explained that one ancestral

agricultural land was sold by his father, the proceeds of which were received in cash and deposited in the bank account of the assessee. In another agreement for sale, the assessee received amount of Rs.4.50 Lacs which was also stated to be deposited in the bank account. However, the Ld. AO rejected the same on the ground that date of sale and cash deposits were not correlated. Accordingly, the sum of Rs.24 Lacs was added to the income of the assessee.

3. During appellate proceedings, the assessee drew attention to the affidavit of his father in support of its submissions. Out of Rs.24 Lacs, the amount of Rs.15.50 Lacs was received under sale deed & agreement to sale. Further, the assessee withdrew cash of Rs.11 Lacs on 17-11-2011 which was redeposited on 26-11-2011. However, Ld. CIT(A) rejected the explanation and confirmed the assessment against which the assessee is in further appeal before us.

4. Upon perusal of sale deed, it could be ascertained that the date of sale has wrongly been considered by Ld. AO to be 14-11-2019 instead of 14-11-2011. The Ld. CIT(A) has also noted this fact in the concluding paragraph of impugned order. The submissions of the assessee are duly supported by the affidavit of his father. There are no adverse findings against the assessee. This being so, the explanation of the assessee as to source of deposit is to be accepted. Therefore, we delete the impugned addition and allow the appeal of the assessee.

5. In AY 2015-16, the assessee deposited cash of Rs.73 Lacs. The amount of Rs.43 Lacs was stated to be received on sale of immovable property whereas the amount of Rs.20 Lacs was stated to be received as advance from land sale. The amount of Rs.20 Lacs was stated to be transfer from loan account. However, Ld. AO noted that only Rs.2 Lacs

was received in cash on sale of property and the assessee's share in the property was to the extent of 33.33% only. Therefore, the source to the extent of Rs.0.67 Lacs was accepted. The Ld. AO, finally, made addition of Rs.42.33 Lacs partially accepting the claim of the assessee. The Ld. CIT(A) confirmed the assessment against which the assessee is in further appeal before us. The Ld. AR has assailed the reassessment jurisdiction of Ld. AO and stated that the legal grounds as urged by the assessee has not been adjudicated. Considering the same, we remit this appeal back to the file of Ld. CIT(A) for de novo adjudication with a direction to the assessee to substantiate its case. All the issues are kept open. The appeal stand allowed for statistical purposes.

6. ITA No.29/Agr/2024 stand allowed. ITA No.30/Agr/2024 stand allowed for statistical purposes.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(SATBEER SINGH GODARA)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखासदस्य / ACCOUNTANT MEMBER

Dated: 22.04.2025

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA