

आयकर अपीलीय अधिकरण न्यायपीठ "एक-सदस्य" मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH "SMC", RAIPUR**

**श्री पार्थ सारथी चौधरी, न्यायिक सदस्य के समक्ष
BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.234/RPR/2025

निर्धारण वर्ष / Assessment Year : 2013-14

Prahlad Kumar Agrawal
Vandana Building, M.G Road,
Raipur (C.G.)-492 001
PAN: ADVPA4103E

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-1(1),
Raipur (C.G)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Dr. Priyanka Patel, Sr. DR

सुनवाई की तारीख / Date of Hearing : 15.05.2025

घोषणा की तारीख / Date of Pronouncement : 15.05.2025

आदेश / ORDER**PER PARTHA SARATHI CHAUDHURY, JM**

The captioned appeal preferred by the assessee emanates from the order of the Ld.CIT(Appeals)/NFAC, dated 10.02.2025 for the assessment year 2013-14 as per the following grounds of appeal:

“1. Ld. CIT(A) erred in confirming addition of Rs.20,00,000/- made by the A.O on account of cash deposits in bank account of appellant treating it to be unexplained cash credit invoking Sec.68. The addition made by A.O is arbitrary, illegal and not justified.

2. Without prejudice to ground no.1, no addition could have been made by the A.O u/s. 68. Since provisions of Section 68 do not apply.

3. The appellant reserves the right to amend, modify or add any of the ground/s of appeal.”

2. The brief facts in this case are that during the year under consideration, the assessee had entered into an agreement for sale of agricultural land situated at Village : Attari, Tehsil & Dist: Raipur, Chhattisgarh with various persons as per records and raised advance against the above agreements. These advances were deposited in the bank account of the assessee maintained with HDFC bank. That on enquiry from the A.O during the course of assessment proceedings, the assessee in order to establish identity, genuineness and source of investments of the advance received in respect of agreement for sale has submitted before the A.O various agreements of sale and confirmations. Thereafter,

summons u/s. 131 of the Act had been issued by the A.O to all the persons from whom the assessee had received advances against agreement to sale of agricultural land. In response to the summons issued, all the said persons except Shri Shatrughan Nishad attended and confirmed that they had entered into agreement with the assessee for the purpose of purchasing agricultural land from him situated at Village : Attari, Tehsil & Dist: Raipur, Chhattisgarh and had given advances as per said sale agreements. The assessee also furnished affidavits from all the persons who had entered into the sale agreement before the A.O except the affidavits of Shri Deen Dayal Nishad and Shri Shatrughan Nishad. Thus, at the time of assessment, the assessee had submitted the copies of the sale agreement, confirmations and affidavits of all the parties except viz. (i) Shri Deen Dayal Nishad; and (ii) Shri Shatrughan Nishad. That since the affidavits of Shri Deen Dayal Nishad and Shri Shatrughan Nishad were not placed before the A.O as evident from Page 2 of the assessment order, the A.O held that the assessee introduced total amount of Rs.20 lacs as unexplained cash credit in the name of Shri Deen Dayal Nishad and Shri Shatrughan Nishad wherein, an amount of Rs.17 lacs was held as unexplained cash credit in the name of Shri Deen Dayal Nishad and similarly an amount of Rs.3 lacs in the name of Shri Shatrughan Nishad were added u/s. 68 of the Act.

3. That when the matter reached before the first appellate authority, the affidavits of Shri Deen Dayal Nishad and Shri Shatrughan Nishad were available before the Ld. CIT(Appeals)/NFAC placed by the assessee as additional evidence and that in accordance with Rule 46A(3) of the Income Tax Rules, the Ld. CIT(Appeals) called for a remand report regarding the ground verification of the affidavits filed in respect of Shri Deen Dayal Nishad and Shri Shatrughan Nishad. The Ld. CIT(Appeals)/NFAC after considering the assessment order, remand report and the submissions of the assessee observed and held as follows:

“4.4 Ground of Appeal no.1 w.r.t. Addition of Rs. 20,00,000/-: In this ground of appeal the appellant's claims regarding the receipt of advances for the sale of agricultural land, supported by affidavits and agreements have not been sufficiently corroborated by proper documentation. Further, the remand report as reproduced above clearly reveals that the documents furnished by the appellant are not authentic as one gentleman denied having made such documents and the other not appeared before the assessing officer for verification. The inability of the appellant to establish authenticity of the documents filed before the Assessing Officer led to the rejection of the appellant's claim for the amounts of Rs.17,00,000/- and Rs.3,00,000/-, which were included in the disputed addition of Rs.20,00,000/- in the remand report. Therefore, the addition of Rs.20,00,000/- made by the AO in his assessment order is upheld and ground of appeal on this issue is hereby dismissed.”

4. At the time of hearing, the Ld. Counsel for the assessee reiterated the submissions made before the sub-ordinate authorities and emphasized on the fact that confirmations and sale agreements pertaining to Shri Deen Dayal Nishad and Shri Shatrughan Nishad totalling to Rs.20

lacs were already filed before the A.O. That during the assessment summons u/s. 131 of the Act were issued to all the parties i.e. proposed buyers of agricultural land from the assessee and responding to such summons Shri Deen Dayal Nishad had appeared and confirmed the advance and all other admitted having entered into agreement and having paid advances to the assessee. In this regard, no adverse inferences has been drawn in respect of all the parties apart from these two persons viz. Shri Deen Dayal Nishad and Shri Shatrughan Nishad.

5. Per contra, the Ld. Sr. DR supported the findings of the sub-ordinate authorities.

6. I have carefully considered the contentions made by the parties and analyzed the facts and circumstances involved in this case a/w. documents on record. This is a case where the agreements of purchase of lands was entered into by the assessee from three persons viz. (i) Shri Ramakant Pandit; (ii) Shri Amit Sashdeva and (iii) Shri Dinesh Sachdeva. Thereafter, the assessee had also entered into agreement to sale of agricultural land as per parties mentioned in the assessment order and in lieu of such agreement these people had advanced money to the assessee and out of the 7 persons, the A.O had accepted the sale confirmations, sale agreements and recorded their statement on oath and also accepted affidavits filed from all the parties except Shri Deen Dayal Nishad and Shri

Shatrughan Nishad. That due to non-availability of affidavits an amount of Rs.20 lacs were added as unexplained cash credit in the hands of the assessee.

7. At the first appellate stage, these affidavits were made available by the assessee before the Ld. CIT(Appeals)/NFAC as additional evidence. Thereafter, a remand report was called for by the Ld. CIT(Appeals)/NFAC from the concerned A.O and as per remand report which is annexed at Page 9 and 10 of the paper book, the A.O regarding Shri Deen Dayal Nishad has not doubted transaction of sale entered into by Shri Deen Dayal Nishad and the assessee. The A.O in the remand proceedings also accepts that it is not Rs.10 lacs but Rs.17 lacs transaction with the assessee by Shri Deen Dayal Nishad. This is evident as the A.O writes that Shri Deen Dayal Nishad is not a man of means to advance Rs.17,00,000/-. However in the entire remand report there is no reasoning given nor A.O conducted specific enquiry regarding financial status of Shri Deen Dayal Nishad which makes the statement of the A.O as hypothetical and mere guess work not sustainable in law. The A.O denies the validity of this transaction of the assessee with Shri Deen Dayal Nishad on the ground that stamp paper records the date of purchase of stamp as mentioned 06.07.2015 and the date of agreement mentioned as 17.08.2012 and therefore, such agreement was not authentic. Further,

the signature in the agreement deferred from signature in the statement and the affidavits. In this regard, the assessee had submitted as follows:

“11. Alleged disparity in date of stamp paper

i) Stamp vendor inadvertently mentioned the year as “2015” in place of “2012”

ii) Serial number, date & Sr. No of issue of other stamp papers matches with that of stamp paper of Deen Dayal Nishad;-

Name	Sr. No of stamp paper	Date of issue	Sr. No of issue by stamp vendor
Deendayal Nishad	L 698534 (PN 11 of PB)	06.07.2015	2503
Shartughan Nishad	L 698532 (PN 15 of PB)	06.07.2012 (PN 16 of PB)	2501
Budharu Nishad	L 698531 (PN20 of PB)	06.07.2012 (PN 21 of PB)	2500
Kamlabai Verma	L 698529 (PN 26 of PB)	06.07.2012 (PN 27 of PB)	2498
Manish Dhruv	L698540 (PN 29 of PB)	06.07.2012 (PN 30 of PB)	2505
Bahadur Yadav	L698533 (PN 35 of PB)	06.07.2015 (PN 36 of PB)	2502
Manoj Yadav	L698547 (PN 32 of PB)	06.07.2012 (PN 33 of PB)	2507

When all the other stamp papers are dated "2012" and serial number of stamp paper & of its issue is in same serial, the mistake on the part of stamp vendor is obvious.

iii) No enquiry from stamp vendor.

iv) Similar transactions entered into by asses-see with 13 parties, who also gave similar cash advance and out of the total 13 parties, cash advances received from 11 parties accepted by the AO. Genuineness of agreements executed with such parties also accepted by the AO.”

8. The said discrepancies as pointed out in the remand proceedings by the A.O is definitely a typing error which has been committed by stamp vendor since as per treasury which issues stamp paper to the stamp vendor serial numbers are matched and as per serial number of the stamp paper regarding all parties it stamps “L698” and this is also with regard to Shri Deendayal Nishad and therefore, instead of 2012, the year is mistakenly mentioned as 2015.

9. That also, as practical mode of issuance of stamp paper by vendor, the date of issuance which is stamped at rear side of the stamp paper, stamping machine is used manually and date and year have to be changed manually in that machine, therefore, there is possibility that while changing the date and year before issuance of stamp paper inadvertently mistake was committed and instead of the year 2012, it got mentioned as 2015. That since the Income Tax Act is within the realm of welfare legislation and it is not a penal legislation and also for the fact that the vendor was not crossed checked by the department therefore the benefit of doubt arises in favour of the assessee and the contention of the

department regarding disparity of the dates on the stamp paper is therefore rejected.

10. The second point of contention in the remand proceedings in respect of Shri Deen Dayal Nishad was that his signature was different in the statement and the affidavit which deferred from the agreement to sale. In this regard, the A.O has not brought what exactly the difference in signature regarding Shri Deen Dayal Nishad. It has been contended and stated at bar by the Ld. Counsel that in one signature, Shri Deen Dayal Nishad writes his name only and on the other signature he had written his name as well as his surname. The department on the other hand has not brought out any evidence to support its contention that the signatures were not of Shri Deen Dayal Nishad or that in one document, signature was made by Shri Deen Dayal Nishad and that the other signature pertains to some other person. No such evidence has been brought on record and in absence of such inquiry, this contention raised by the department is also rejected.

11. That with regard to Shri Shatrughan Nishad, his affidavit was also filed as additional evidence and it was also sent to the A.O for his comments and therein, he writes that since affidavit filed by Shri Shatrughan Nishad is not corroborated by supporting evidence, therefore, the contention raised in the assessment is correct. However, the A.O in

the remand report has not brought out any legal adversity nor his comments that such affidavit filed is not genuine or that it is dubious and false. When the matter was remanded to the file of the A.O calling for remand report, he was bound to make necessary enquiry and come out with the findings instead of that he simply and summarily rejected the affidavits filed as additional evidence by the assessee with regard to Shri Shatrughan Nishad.

12. That in the totality of the facts and circumstances, it is observed that department accepted the factum that the assessee had initially entered into agreement of purchase with three parties i.e. (i) Shri Ramakant Pandit; (ii) Shri Amit Sashdeva and (iii) Shri Dinesh Sachdeva and the department also accepted the fact that subsequently the assessee entered into agreement for sale with regard to 7 persons and in due course, the assessee had received advanced money from them. At the assessment stage, various sale agreements, confirmations of the parties and affidavits were filed by the assessee. Shri Shatrughan Nishad was not present at the assessment and affidavit of Shri Deen Dayal Nishad and Shri Shatrughan Nishad were filed before the Ld. CIT(Appeals)/NFAC as additional evidence. The department has accepted in respect of five parties regarding the cash advanced received by the assessee but in respect of Shri Deen Dayal Nishad and Shri Shatrughan Nishad, the same were

rejected summarily since affidavits were not filed at the level of the A.O and amount of Rs.20 lacs were added. Similarly when the remand report was called for from the A.O regarding these affidavits filed, however, as already examined that the contentions raised by the A.O in such affidavit does not have any legal basis to survive and hence, have been rejected.

13. The factum of transaction i.e. land to be sold in respect of 7 parties has been accepted by the department, the agreements have been accepted and confirmations have also been accepted. That on the same parameters and factum of land, the department has not brought any evidence as to why for the two people viz. Shri Deen Dayal Nishad and Shri Shatrughan Nishad, the department holds the amount as non-genuine and treats the same as unexplained cash credit. That neither the A.O nor the Ld. CIT(Appeals)/NFAC has doubted the entire transaction entered into by the assessee with these 7 persons. The Ld. Sr. DR could not establish that why the affidavits of other parties were accepted by the department and why affidavits which were placed as additional evidence i.e. with regard to of Shri Deen Dayal Nishad and Shri Shatrughan Nishad were held as invalid. More so, because it pertains to the same land agreements which for the other parties, the department has already accepted as genuine. The Ld. Sr. DR also could not produce any documentary evidence to justify the stand of the department in rejecting the affidavits filed and thereby

consequent addition in respect of Shri Deen Dayal Nishad and Shri Shatrughan Nishad.

14. Considering the facts and circumstances in entirety, in my considered view the addition made by the department u/s. 68 of the Act as unexplained cash credit is unfounded, arbitrary, misplaced and bad in law. Resultantly, the A.O is directed to delete the said additions from the hands of the assessee.

15. As per the above terms, the grounds of appeal raised by the assessee are allowed.

16. In the result, appeal of the assessee is allowed.

Order pronounced in open court on 15th day of May, 2025.

Sd/-

(PARTHA SARATHI CHAUDHURY)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 15th May, 2025.

SB, Sr. PS

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr. CIT-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur