

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER

आअसं.798/दिल्ली/2025(नि.व. 2012-13)
ITA No.798/DEL/2025 (A.Y.2012-13)

Shah Hasan,
157, Mushtarak Miranpur,
Jansath, Uttar Pradesh 251315

PAN: AIRPH-7471-F

..... अपीलार्थी/Appellant

बनाम Vs.

National Faceless Appeal Center,
Delhi 110001

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : None

प्रतिवादीद्वारा/ Respondent by : Shri Manoj Kumar, Sr. DR

सुनवाई की तिथि/ Date of hearing : 20/05/2025

घोषणा की तिथि/ Date of pronouncement: : 20/05/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against an ex-parte order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (hereinafter referred to as 'the CIT(A)') dated 19.10.2023, for assessment year 2012-13.

2. The appeal is time barred by 408 days. The assessee has filed an application seeking condonation of delay in filing of appeal supported by an affidavit. After perusing the application for condonation of delay, I am satisfied that delay in filing of present appeal is un-intentional and was for the reasons stated in the application

which appears to be bonafide. Hence, delay of 408 days in filing of appeal is condoned and appeal is admitted for hearing on merits.

3. Shri Manoj Kumar, representing the department submits that the assessee neither responded to the notices issued u/s. 143(2) or 148 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). Even subsequent notices issued u/s. 142(1) of the Act remained unanswered by the assessee. Hence, the Assessing Officer (AO) was constrained to complete the assessment u/s.147 r.w.s. 144 of the Act. The assessee had deposited Rs.38,87,000/- in his saving bank account, the assessee failed to substantiate the source of money deposited in his bank account. Hence, the AO made addition of Rs. 38,87,000/- u/s. 68 of the Act. In First appeal, the assessee failed to reply the notices issued by the CIT(A). The CITA), therefore, upheld findings of the AO and dismissed the appeal. The assessee has failed to substantiate source of cash deposits before the lower authorities.

4. Submissions made by Id. DR heard, orders of the authorities below examined. The assessment for AY 2012-13 in the case of assessee was reopened on the basis of AIR information that the assessee has deposited Rs.38,87,000/- in cash in his saving bank account during Financial Year 2011-12. Notice u/s. 148 of the Act dated 26.03.2019 was issued and served on the assessee. However, there was no response to said notice by the assessee and no return of income was filed in response to the notice u/s. 148 of the Act either. Subsequently, the assessee in response to notice u/s. 142(1) of the Act filed written submissions explaining the source of cash deposits in the bank account. As per contentions of the assessee, the assessee had entered into an agreement to sale of agricultural land for a consideration of Rs.56,18,750/-. The cash advance received as part of consideration was deposited in the bank account. The Assessing Officer rejected submissions of

the assessee as contentions of the assessee were unsubstantiated and made additions of unexplained cash deposits in the bank account. In First Appellate proceedings, the CIT(A) issued three notices to the assessee i.e. on 18.01.2021, 11.02.2021 and 05.10.2023, to remove deficiency in filing of appeal. Since, the assessee failed to remove the deficiency as pointed by the CIT(A), the appeal of the assessee was dismissed in *limine*. Hence, the present appeal.

5. Considering entire facts of the case and documents on record, I deem it appropriate to restore this matter to the AO for *denovo* assessment. The AO shall grant reasonable opportunity of making submissions to the assessee, in accordance with law before passing fresh assessment order.

6. The assessee shall respond to the notice(s) served by the AO, without fail and shall furnish relevant evidences to substantiate its contentions.

7. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on Tuesday the 20th day May, 2025.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 20.05.2025

NV/-

प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar) ITAT, DELHI