

IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR

BEFORE DR. MITHA LAL MEENA, ACCOUNTANT MEMBER AND
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No.607/JODH/2024
(Assessment Year : 2013-14)

Rajendra Kumar Sharma Bikaner, 8/290, Mukta Prasad Nagar, Bikaner, Rajasthan-334 001 PAN : CBEPS1030H	vs	Income-tax Officer, Ward-2(1), Bikaner-334 001
APPELLANT		RESPONDENT

Assessee by : Shri Amit Kothari
Respondent by : Shri Karni Dan, Addl.CIT (Sr.D.R.)

Date of hearing : 28/05/2025
Date of pronouncement : 29/05/2025

ORDER

Per Bench:

The appeal of the assessee was filed against the order of the National Faceless Appeal Centre (NFAC), Delhi [in short, 'Ld.CIT(A)] passed under 2013-14, date of order 05/12/2023. The impugned order was originated from the order of the Learned Income-tax Officer, Ward-2(1), Bikaner passed under section 147 / 143(3) of the Act, date of order 20/12/2018.

2. We heard the rival submissions and considered the documents available on record. The Ld.AR stated that the addition was made by the Ld.AO amount to Rs.35,13,120/- under section 69B of the Act. The aggrieved assessee filed an appeal before the CIT(A), but due to Covid lock down, the assessee was not able to comply with the notice of the Ld.CIT(A). Accordingly, the Ld.CIT(A) passed an order exparte and confirmed the addition amount to Rs.35,13,120/-. Further, the assessee is a small businessman and received gifts from his father, wife, brother and sister-in-law. The assessee is doing papad business and he filed the return under presumptive tax scheme under section 44AD of the Act. The return was filed and finally notice under section 148 was issued and the assessment was completed. In assessment proceedings, the assessee submitted the relevant details of introduction to capital account, gift from his father, brother, wife and sister- in-law, the details of which are as follows:-

Gift from father	Rs.10 lakhs
Gift from brother	Rs. 2 lakhs
Gift from Kusum (wife)	Rs. 1 lakh
Gift from Preti (sister in law)	Rs. 1 lakh

The evidence was found confirmed by supporting evidence and documents related to his father, who was a government employee in Government of Rajasthan. The copy of the evidence is duly submitted before the bench in APB pages 9 to 11 and the bank account of the father is enclosed at APB page 12. Further, the assessee had sundry debtors of Rs.19.49 lakhs outstanding as on 31/03/2012 and the money was received by the assessee before purchase of land. But the said debtors were not disclosed in the balance-sheet, so the addition was confirmed by the Ld.CIT(A). The assessee made total investment of Rs.

35,13,120/- by allowing the gift from relatives, realization of sundry debtors and also from his own savings. These submissions of the assessee were rejected by the Ld.CIT(A) and confirmed the addition on account of investment in land amount to Rs. 35,13,120/-.

3. The Ld.DR argued and fully relied on the order of the revenue authorities.

4. In our considered view, we find that the assessee is a small businessman and is filing the return of income under the provisions of section 44AD of the Act under presumptive scheme; the assessee is not liable to maintain the books of account. So, the realization of sundry debtors is part of business, which has been realized during the time of purchase of property. The year-wise P&L Account from FYs 201-13, 2011-12, 2010-11 and 2009-10 are duly annexed in the APB pages 2 to 7. We find that the Ld.AO has not rejected the affidavit submitted by the assessee during the assessment proceedings as the source for purchase of the property is duly with sufficient funds with gifts and from the realization of sundry debtors. So we find the said addition made by the Ld.AO is not justified. Accordingly, we delete the addition of Rs. 35,13,120/-.

5. In the result, the appeal of the assessee bearing **ITA No.607/JODH/2024** is allowed.

Order pronounced in the open court on 29th day of May, 2025.

Sd/-

(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

Jodhpur, दिनांक/Dated: 29/05/2025
Pavanan

sd/-

(ANIKESH BANERJEE)
JUDICIAL MEMBER

opy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., जोधपुर/DR, ITAT,
JODHPUR
5. गार्ड फाइल/Guard file.

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BY ORDER,

(Asstt. Registrar), ITAT, JODHPUR