

आयकर अपीलिय अधिकरण  
दिल्ली पीठ "सी", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री अवधेश कुमार मिश्रा, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER  
आअसं.5781/दिल्ली/2024(नि.व. 2012-13)  
ITA No. 5781/DEL/2024 (A.Y.2012-13)

Keshav Dalal,  
H No. 32, H B Colony, Palwal,  
Haryana 121102

PAN: APYPD-2023-D

..... अपीलार्थी/Appellant

बनाम Vs.

Deputy Commissioner of Income Tax,  
Circle-3(1), Jhandewalan Extention,  
Delhi 110055

..... प्रतिवादी/Respondent

Assessee by : Shri Gurjeet Singh, Chartered Accountant  
Department by : Shri Dayainder Singh Sidhu, CIT(DR)

सुनवाई की तिथि/ Date of hearing : 22.07.2025

घोषणा की तिथि/ Date of pronouncement: : 25.07.2025

आदेश/ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), Delhi-25 [in short 'the CIT(A)'] dated 29.11.2024, for Assessment Year 2012-13.

2. Shri Gurjeet Singh, appearing on behalf of the assessee submitted that though the assessee has raised multiple grounds challenging validity of the assessment order and the additions on merit, the assessee at this stage is only pressing jurisdictional issue raised in ground no.3 of appeal, that is, the addition has been made in the impugned assessment year without there being any incriminating material. He submitted that AY 2012-13 is the year of unabated assessment. The issue is squarely covered by the decision of Hon'ble Supreme

Court of India in the case of *PCIT vs. Abhisar Buildwell (P.) Ltd.* 150 taxmann.com 257. The Id. AR pointed that the Assessing Officer (AO) made three additions i.e.

(i) commission at the rate of 1% Rs.1,00,000/-;

(ii) gifts received by the assessee Rs.13,00,000/-; and

(iii) amount received by the assessee from relatives and friends Rs.2,50,000/-. The addition at serial no. (ii) and (iii) was made u/s. 68 of the Act. Aggrieved by the assessment order dated 27.12.2019 passed u/s. 153A of the Act, the assessee carried the issue in appeal before the CIT(A). The CIT(A) vide impugned order deleted the addition of Rs.1,00,000/- in respect of commission and addition of Rs.2,50,000/- on account of payment received from relatives and friends. The Id. AR submitted that a perusal of the assessment order would show that the addition of Rs.15,50,000/- u/s. 68 of the Act which comprises of gifts Rs.13,00,000/- and amount received from relatives and friends Rs.2,50,000/- has been made without there being any incriminating material. There is no reference to seized material while making addition by the AO. He thus, prayed for quashing the assessment.

3. Per contra, Shri Dayainder Singh Sidhu representing the department vehemently defended the assessment order and the findings of the CIT(A).

4. Both sides heard, orders of the authorities below examined. The short issue for consideration before us is whether the addition of Rs.13,00,000/- sustained by the CIT(A), stem from any incriminating material found during the course of search. A search action u/s. 132 of the Act was carried out on 14.09.2017 at the residential/business premises of the assessee. Various papers/documents were found and seized during search. Two additions were made by the AO. The First addition of Rs.1,00,000/- was on account of alleged receipt of commission by the

assessee. The addition was deleted by the CIT(A). The second addition of Rs.15,50,000/- is u/s. 68 of the Act. A perusal of the assessment order reveals that addition of Rs.15,50,000/- comprises of addition of Rs.13,00,000/- on account of alleged gift received from father and Rs.2,50,000/- was added by AO after rejecting assessee's submissions that the said money was received from relatives and friends. There is no reference to any incriminating material whatsoever for making the additions by the AO. The addition has been made by the AO only for the reason, that satisfactory reply was not furnished by the assessee and supportive evidences to substantiate gift from father amounting to Rs.13,00,000/- was not provided. The addition has been made without there being any incriminating material. It is no more *res integra* that in case of unabated assessments no addition can be made without incriminating material. The Revenue has not been able to show any incriminating material on the basis of which impugned addition has been made. We find merit in the submissions of the assessee, accordingly the assessee succeeds on ground no. 3 of appeal.

5. Since, no submissions have been made by the Id. AR of the assessee on other grounds of appeal i.e. ground no. 1, 2, & 4 to 6, at this stage, the same are left open.

6. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on Friday the 25<sup>th</sup> day of July, 2025.

Sd/-

(AVDHESH KUMAR MISHRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 25/07/2025

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

**प्रतिलिपि अग्रेषितCopy 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.

BY ORDER,

//True Copy//

(Asstt. Registrar) ITAT, DELHI