

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
[DELHI BENCH : “DEHRADUN” NEW DELHI]
BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER

I.T.A. No. 59/DDN/2025 (A.Y 2021-22)

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| Koma Singhal 34F, Narendra Vihar Kaulagarh Road, Dehradun Uttarakhand- 248001 PAN: BNIPS9413P | Vs. | DCIT/ACIT Central Circle Dehradun, Uttarakhand |
| Appellant | | Respondent |

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| Assessee by | Sh. Harshit Gupta, CA | | |
| Revenue by | Sh. S. K. Chaterjee, CIT DR | | |
| Date of Hearing | 10/07/2025 | | |
| Date of Pronouncement | 06/08/2025 | | |

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Assessee challenging the order of Commissioner of Income Tax (Appeals)- Noida-3 ('Ld. CIT(A)' for short), Delhi dated 06/02/2025 for the Assessment Year 2021-22.

2. Brief facts of the case are that, the assessee is an individual who runs a proprietorship concern in the name and style of 'M/s SatyaSai Filling Station' at HaripurKalsi Gate, Vikasnagar, Dehradun and dealing in retail sale of various petroleum products. The assessee declared income under the heads 'Profit & Gains from Business & Profession' 'Income from Capital Gain' & 'Income from other sources' in her Return of Income filed for the period under consideration.

3. During the assessment proceedings, it was noticed by the A.O. that, the assessee had sold a property situated at MaujaJeevangarh, Vikas Nagar, Dehradun for a total sale consideration of Rs. 91,52,000/-. The assessee was required to furnish the working on the capital gain accrued to the Assessee on the sale of the aforesaid capital asset along with the necessary supporting documents. In response, the assessee furnished the requisite working along with certain supporting documents. On perusal of the same, it was observed by the A.O. that, the assessee had claimed Rs. 5,00,000/- towards cost of improvement of the capital asset sold and which on indexation worked out to Rs. 7,52,500/-. Accordingly, the assessee was required to substantiate the aforesaid indexed cost of improvement with appropriate bills/vouchers. However, the assessee could not furnish the same in due time. The A.O. observed that the Assessee had failed to corroborate the aforesaid indexed cost to improvement of Rs. 7,52,500/- claimed on the sale of aforesaid capital asset, with appropriate bills/vouchers. The A.O. disallowed a sum of Rs. 7,52,000/- vide assessment order dated 28/12/2022 passed u/s 143(3) of the Act.

4. Aggrieved by the Assessment order dated 28/12/2022, the Assessee preferred an appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 06/02/2025, sustained the partial disallowance of Rs.

3,00,800/- by partly allowing the Appeal. As against the order of the Ld. CIT(A) dated 06/02/2025, the Assessee preferred the present Appeal.

5. The Ld. Counsel for the Assessee vehemently submitted that the Ld. CIT(A) committed error in sustaining the addition of Rs. 3,00,800/- by disallowing the cost of improvement to an extent of Rs. 2,00,000/- only on the ground that, one party Mr. Saeed Ahmad did not provide his confirmation against the enquiry letter issued u/s 133(6) of the Act by the Ld. CIT(A). The Ld. Counsel further submitted that the Assessee had provided all the documentary evidences which have been brushed aside by the Ld. CIT(A). Thus, Ld. Assessee's Representative contended that the order impugned deserves to be set aside.

6. Per contra, the Ld. Department's Representative vehemently submitted that the cost of improvement to an extent of Rs. 2,00,000/- could not be justified by the Assessee as no confirmation was received from Mr. Saeed Ahmad whose address could not be located and the notice issued u/s 133(6) of the Act remained unserved. Thus, submitted that the Ld. CIT(A) committed no error in sustaining the partial addition made by the A.O., therefore, sought for dismissal of the Appeal.

7. We have heard both the parties and perused the material available on record. During the year under consideration, the Assessee sold an immovable property situated at MaujaJeevanganrh, Vikas Nagar, Dehradun. The Assessee claimed to have incurred improvement cost for constructed of a building thereon by spending Rs. 27, 93,430/- and accordingly indexation benefit was claimed by the Assessee. The Assessee paid the taxes on capital gain arising for such sale amounting to Rs. 40,90,038/- after claiming exemption u/s LTCG. In order to substantiate the claim of the Assessee, the Assessee produced documentary evidences such as bills, vouchers, Calculation of Capital Gains, Copy of Sale and Purchase Deeds and the mode of payment of cost of improvements.

8. The only reason for rejecting the claim of the Assessee by the Ld. CIT(A) that in the enquiry made u/s 133(6) of the Act, where one party Mr. Saeed Ahmad did not provide his confirmation against his bill raised for the cost of improvement to the tune of Rs. 2,00,000/- claimed by the Assessee. Admittedly, the notice u/s 133(6) of the Act has been issued to Mr. Saeed Ahmad in FY 2024-25 to enquire the cost of improvement occurred in FY 2012-13. There was a huge gap of 12 years to the enquiry conducted by the Revenue. Merely because a party did

not respond to notice issued by the A.O. u/s 133(6) of the Act that to after 12 years, it cannot be construed that the said transaction was not genuine without their being any corroborative evidence.

9. The Hon'ble High Court of Punjab and Haryana in the case of Commissioner of Income Tax, Faridabad Vs. G. P. International IT Appeal No. 618 of 2009 dated 02/12/2009 held as under:-

“Regarding the addition of Rs. 15,00,000/- on account of unexplained share capital, it has been held that at the time of the original assessment, the assessee had supplied the list of the persons along with their addresses to whom the shares were sold. The said list contained information, such as name, address and number of shares allotted. The Assessing Officer had issued enquiry letter under Section 133 (6) of the Act at random basis to 25 persons, out of whom some of the persons confirmed the genuineness of the transaction. However, some persons did not respond. In view of this fact, out of the total share capital of Rs. 54,28,500/-, the Assessing Officer made an addition of Rs. 15,00,000/- by treating the sources of share capital of those persons as unexplained. In our opinion, the CIT (A) as well as the ITAT have rightly deleted the aforesaid addition, because in the instant case, the Assessing Officer is not doubting the identity of the persons from whom the assessee has shown receipt of application money. Merely because some of the persons did not respond to the notice issued by the Assessing Officer under Section 133 (6) of the Act, it cannot be taken that the said transaction was ingenuine. It has been held by the Hon'ble Supreme Court in Commissioner of Income Tax v. Lovely Exports (P) Ltd. (2008) 216 CTR 195 (SC) that if the share application money is received by the assessee company from alleged bogus shareholders, whose names are given to the Assessing Officer, then the department is free to proceed to re-open their individual assessments in accordance with law. But the said amount cannot be taken as unexplained income in the hands of the assessee.”

10. In view of the above, we find merit in the grounds of Appeal of the Assessee and find no reason to sustain the addition made by the A.O. which has been confirmed by the Ld. CIT(A). Accordingly, the addition

sustained by the Ld. CIT(A) is deleted and the order impugned is hereby set aside.

11. In the result, Appeal of the Assessee is allowed.

Order pronounced in the open court on 06th August, 2025

Sd/-

Sd/-

**(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Date:- 06.08.2025

R.N, Sr.P.S*

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1. **Appellant**
2. **Respondent**
3. **CIT**
4. **CIT(Appeals)**
5. **DR: ITAT**

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**