

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.1760/Del./2018
Assessment Year 2009-2010

Shri Naresh Kumar, Noida. PAN AURPK6758J C/o. A.S. Legal, C.4/129, First Floor, Safdarjung Development Area, Delhi.	vs.	The Income Tax Officer, Ward-2(3), Noida.
(Appellant)		(Respondent)

For Assessee :	Shri Rajiv Saxena And Shri Sankalp Sharma
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	28.02.2019
Date of Pronouncement :	08.03.2019

ORDER

This appeal by assessee has been directed against the order of Ld. CIT(A)-I, Noida, Dated 28th November, 2016 for the assessment year 2009-2010, challenging the addition of Rs.11,51,525/- under section 68 of the Income Tax Act, 1961.

2. Briefly the facts of the case are that assessing officer collected information that the assessee had between 17th April 2008 to 6th August 2008 had deposited

Rs.20,73,400/- in his bank accounts. The assessment was reopened and material was confronted to the assessee. The assessee has not given any satisfactory explanation. Therefore, assessing officer, made addition of Rs.20,73,400/- as unaccounted income and added under section 68 of the Income Tax Act, 1961.

2.1. The assessee submitted before the Ld. CIT(A) that during financial year under reference assessee along with his family members had on 9th May 2008 sold the land owned by assessee and his family members, for a total consideration of Rs.24,37,500/- and assessee has 1/4th share of Rs.6,09,375/-. This amount was utilised for making cash deposit in the bank account. The sale deed of the property was filed in support of the same. The assessee further explained that he owned about 12 acres of land in District Faridabad and he used to grow vegetables and sold the same in the market and the remaining cash was from such activities. The assessee filed copy of the sale deed and other details and bills of agriculture produce from several parties in respect of earning of agriculture income. The Ld.

CIT(A) noted the claim of assessee after selling agriculture produce in a sum of Rs.17,01,643/- is very exorbitant. The Ld. CIT(A), however, accepted that assessee has owned agricultural land and is engaged in agricultural activities. The Ld. CIT(A) accepted the sale consideration of Rs.6,09,375/- out of sale of the property, of which, benefit was given to assessee. Further on account of agricultural income, Ld. CIT(A) accepted the claim of assessee in a sum of Rs.3,12,500/-. Therefore, source of cash deposited in a sum of Rs.9,21,875/- was accepted and addition to that extent was deleted, restricting the addition to Rs.11,51,521/-.

3. The assessee is in appeal challenging the addition of Rs.11,51,521/-.

4. We have heard the Learned Representatives of both the parties and perused the material available on record.

5. Learned Counsel for the Assessee reiterated the submissions made before the authorities below and filed

copy of the sale deed and bills for sale of agricultural produce. He has submitted that the share of assessee and his brother Shri Anil Kumar of sale consideration of the property comes to Rs.12,18,750/- which is available to assessee for making cash deposit being the amount available to the family. He has further submitted that assessee has filed bills of sale of agricultural produce from pages 13 to 31 of the paper book, which shows that assessee has sold the agricultural produce of Rs.14,65,480/- and these bills have not been disputed by the Ld. CIT(A). He has, therefore, submitted that assessee has availability of funds of Rs.26,84,230/-, therefore, cash deposit of Rs.20,70,400/- stands explained.

6. On the other hand, Learned Departmental Representative relied upon the orders of the authorities below.

7. After considering the rival submissions, I am of the view that assessee has explained source of the cash deposit in the bank account. Copies of the bills of sale of agricultural produce are filed in the paper book, which

supports the explanation of assessee that assessee received cash of Rs.14,65,480/- out of sale of agriculture produce. The Ld. CIT(A) partly accepted the agricultural income which supports the explanation of assessee that assessee had source from agricultural income. The Ld. CIT(A) also partly accepted the explanation of assessee for sale of property, but, assessee explained that the share of property of assessee's brother is also available to him being the amount getting in joint family. All these documents in the paper book have not been disputed by the authorities below. Learned Counsel for the Assessee further submitted that apart from it, assessee has salary income, which have not been taken into consideration. These facts clearly show that assessee has source to make deposit in the bank account. The explanation of assessee is thus accepted and entire addition is deleted.

8. In the result, appeal of Assessee allowed.

Order pronounced in the open Court.

Delhi, Dated 08th March, 2019
VBP/-

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.