आयकर अपीलीय अधिकरण ,चण्डीगढ़ न्यायपीठ “ए” , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH “A”, CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 1021 /Chd/ 2024
निर्धारण वर्ष / Assessment Year : 2011-12

Harkesh Singh VPO Thol, P.O. Shahbad, Kurukshetra-136136 Haryana	बनाम	The ITO Ambala
स्थायी लेखा सं./PAN NO: BRPPS7032D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Ankush Sharma, Advocate
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, Addl. CIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 14/10/2025
उदघोषणा की तारीख/Date of Pronouncement : 03/11/2025

आदेश/Order

PER KRINWANT SAHAY, AM:

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC, Delhi dt. 18/09/2024 pertaining to A.Y. 2011-12.

2. In the present appal Assessee has raised the following grounds:

1. That the order of the learned CIT (A) under National Faceless Appeal Centre is arbitrary, illegal and against the fact.

2. That on the facts and circumstances of the case, the learned CIT(A) has erred in law in confirming the action of the learned Assessing Officer and just passed an order without making any inquiry which is without following the principle of natural justice.

3. That on the facts and circumstances of the case as well as in law, the learned CIT (A) has erred in confirming the action of the learned Assessing Officer in making an addition of Rs. 25,00,000/- by treating the cash deposits as unexplained money.

4. That the Appellant craves leave to amend, alter, add or delete all or any of the above grounds of appeals.

3. Briefly the facts of the case are that the assessment in the present case was reopened under Section 147 of the Income Tax Act, 1961 on the basis of information that the assessee had deposited cash aggregating to Rs.60,02,625/- in his savings bank account maintained with the State Bank of India during the Financial Year 2010-11 relevant to the Assessment Year 2011-12. In compliance with the notices issued pursuant to the reopening, the assessee filed his return of income declaring agricultural income of Rs.1,28,560/- only.

3.1 During the course of Assessment proceedings, the Appellant contended that out of total cash deposits of Rs. 60,02,625/-, he has made cash deposits of Rs. 25,00,000/- out of sale of agriculture land in the name of his brother namely Sh. Bhag Singh, Rs. 22,00,000/- was deposited out of sale of his own agriculture land and Rs. 13,02,625/- was deposited out of cash withdrawal from bank. The Ld. AO has accepted Rs. 22,00,000/- and Rs. 13,02,625/- but did not accept Rs. 25,00,000/- that received out of sale of Appellant's brother agriculture land.

3.2 The Learned Assessing Officer, however, accepted the explanation only to the extent of Rs.22,00,000/- and Rs.13,02,625/- and rejected the explanation regarding Rs.25,00,000/- claimed to have been received from the sale of agricultural land belonging to the Appellant’s brother, thereby treating the same as unexplained and making an addition to the income of the assessee.

4. Against the order of the Assessing Officer the assessee carried the matter in appeal before the Ld CIT(A). The Ld. CIT(A), however, affirmed the findings and addition made by the Assessing Officer without granting the relief sought by the assessee.

5. Feeling aggrieved by the order of the Ld. CIT(A), the assessee has preferred an appeal before us.

6. During the course of hearing the Ld. AR submitted that the Ld. AO as well as the Ld. CIT(A) have failed to properly appreciate the evidences already on record—namely, the sale deed, affidavit, and bank details establishing that the impugned cash deposit originated from genuine agricultural-land sale proceeds belonging to Sh. Bhag Singh.

6.1 Ld. AR further submitted that despite the specific request made by him, the Ld. AO did not summon Sh. Bhag Singh nor verify the sale transaction from the Sub-Registrar or other relevant records. The addition was made merely on suspicion, which cannot substitute for proof.

6.2 Ld. AR submitted that the rejection of the explanation only because the affidavit contained a mistaken statement regarding the existence of a bank account is legally untenable. The Hon'ble Courts have repeatedly held that minor technical errors cannot override substantive evidence of genuine transactions.

6.3 Ld. AR also submitted that the subsequent sale deed dated 19-12-2011, showing that the families of both brothers jointly sold agricultural land for Rs. 1.37 crore, further proves the bona fides of the family's agricultural holdings and financial capacity to generate such cash deposits.

6.4 Ld. AR stated that the explanations and supporting documents submitted by him were not properly confronted or considered, amounting to denial of opportunity and violation of natural justice. The impugned orders thus cannot be sustained in law.

6.5 Ld. AR further drew our attention to the brief facts of the case submitted by him which is placed at page 5 of appeal set wherein it was stated that in this case the assessee has made cash deposits into bank with 3 major entries of cash deposits:-

1. Rs. 25,00,000/- which was deposited out of sale proceeds of agriculture land of his brother Sh. Bhag Singh.

2. Rs. 22,00,000/- was deposited out of sale proceed of his own agriculture land which was accepted by the ld. AO under assessment.

3. Rs. 13,02,625/- was deposited out of cash wtithdrawal from bank as a part of redeposit into bank which was also accepted by ld AO.

6.6 Ld. AR submitted that on the part of Rs. 25 lakh which the assessee alleged that he has taken from his brother for the purchase of joint agriculture land was not accepted by the AO. The reason behind that that there is some more cash entries into his bank A/c In addition, the assessee has submitted sale deed of his agri land, his affidavit and also submitted his bank statement. But in affidavit it was inadvertently mentioned that Bhag Singh did not have any bank A/c instead of mentioning he did not have any other bank a/c except this one. But the AO has caught this point and disallowed the documents as well submission of the assessee only on the ground that the Affidavit was incorrectly filed and the assessee has requested the AO to please call u/s 133(6) his brother and confront the source of his deposits into bank but the ld AO did not did not do this and just passed an order with addition. Subsequently all related documents such as Sale deed of Bhag Singh Agri land, Bank Statement of Bhag Singh and Affidavit of Bhag Singh were produced before CIT(A) for verification but he just passed the same order without considering aforesaid documents.

6.7 Ld. AR stated that in view of the foregoing facts, evidence placed on record, and the well-settled legal position, the addition of Rs.25,00,000/– made by the Learned Assessing Officer and subsequently upheld by the Ld. CIT(A) is wholly unjustified, unwarranted, and contrary to law. Ld. AR made a prayer to delete the impugned addition of Rs.25,00,000/–, or grant such other relief as may deem fit and proper in the facts and circumstances of the case.

7. Per contra, the Ld. DR relied on the order of the lower authorities.

8. We have heard the rival submissions and perused the material available on record. The primary dispute in the present appeal relates to the

addition of Rs.25,00,000/- made by the Assessing Officer by treating the cash deposit as unexplained money under the provisions of the Act. It is an admitted position that the total cash deposit of Rs.60,02,625/- was explained by the assessee under three separate heads. Out of the same, the Ld. AO has accepted Rs.22,00,000/- as proceeds from sale of agricultural land owned by the assessee himself and Rs.13,02,625/- from redeposit of cash withdrawn from bank. The dispute is confined only to the balance amount of Rs.25,00,000/- stated to have been received from the agricultural land sale proceeds of the assessee's brother, Shri Bhag Singh.

8.1 The assessee has placed before the revenue authorities sale deed, bank statement, and affidavit of Shri Bhag Singh explaining that the said amount was handed over to the assessee for purchase of joint agricultural property. These documents establish identity of the payer, genuineness of the transaction, as well as the source of funds. No discrepancy in these documents has been pointed out by the Ld. AO or Ld. CIT(A). The rejection of the explanation solely on the ground of a clerical error in the affidavit regarding the existence of a bank account is purely hyper-technical and does not go to the root of the matter.

8.2 It is further observed that the assessee had specifically requested the Assessing Officer to verify the sale proceeds directly by issuing notice under section 133(6) to Shri Bhag Singh or by making enquiry from concerned revenue authorities. The Ld. AO, however, did not carry out any such enquiry and proceeded to draw adverse conclusion merely on suspicion. It is trite law that when documentary evidences are available, the revenue cannot disregard them without conducting proper investigation or bringing any contrary material on record.

8.3 The subsequent sale deed dated 19.12.2011 showing a substantial sale consideration for agricultural land jointly held by the family further reinforces the financial capacity of Shri Bhag Singh to have advanced the said amount.

This evidence, though furnished before the Ld. CIT(A), was not examined at all, which amounts to violation of principles of natural justice.

8.4 The Hon'ble Courts have time and again held that when the assessee has discharged the onus by furnishing identity, genuineness, and creditworthiness, the burden shifts to the revenue to prove the contrary. In the present case, the authorities below have failed to rebut the evidences placed on record. A mere doubt cannot take the place of proof nor can addition be made on presumption, conjecture, or surmise.

8.5 Considering the totality of facts and circumstances, and in the absence of any adverse material brought by the revenue, we hold that the explanation offered by the assessee regarding the amount of Rs. 25,00,000/- is satisfactory and duly supported by documentary evidence. The addition made by the Assessing Officer and sustained by the Ld. CIT(A) is, therefore, unjustified and liable to be deleted. Accordingly, the grounds raised by the assessee are allowed.

9. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 03/11/2025

Sd/-

ललित कुमार
(LALIET KUMAR)
न्यायिक सदस्य /JUDICIAL MEMBER

Sd/-

कृणवन्त सहाय
(KRINWANT SAHAY)
लेखा सदस्य/ ACCOUNTANT MEMBER

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File