

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC": NEW DELHI  
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 2656/Del/2023  
(Assessment Year: 2011-12)

Siddharth Mehta, Vs. ITO,  
Flat No. 605, Arihand Ward-2(3),  
Altura, Plot No. EH-3, Ghaziabad  
Abhay Khand-II,  
Indirapuram, Ghaziabad  
**PAN: AKDPM0966C**

Assessee by : Shri Ranjan Chopra, CA  
Revenue by: Shri Om Prakash, Sr. DR

Date of Hearing 15/01/2024  
Date of pronouncement 15/01/2024

**ORDER**

1. The appeal in ITA No.2656/Del/2023 arises out of the order of National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. CIT(A)', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1054490617(1) dated 20.07.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 dated 23.12.2018 (hereinafter referred to as 'the Act') by ITO, Ward-2(2)(3), Ghaziabad (hereinafter referred to as 'ld. AO').

2. The assessee has raised the following grounds of appeal:-

*"1. That the Order of learned CIT (A) sustaining the order of the learned Assessing Officer is bad in law and on facts and is liable to be set-aside.*

*2. That the learned CIT (A) has erred in law and on facts in upholding the addition of Rs 29,00,000/- on account of unexplained cash credit / deposit without appreciating the facts of the appellant in proper perspective.*

*3. That the Ld. A.O. has erred both in law and on facts while issuing notice u/s 148 of the Income Tax Act, 1961 and therefore the assessment made by Ld. Income Tax Officer is bad in law, illegal and void ab- initio.*

*4. That the Notice issued u/s 148 of the I.T. Act, 1961 by Income Tax Officer is without satisfaction as defined u/s 147 and U/s 151(1) of the I.T. Act, 1961 and therefore the assessment my please be quashed.*

5. *That orders passed by the learned CIT(A) and learned Assessing Officer are against the principles of natural justice."*
3. I have heard the rival submissions and perused the material available on record.
4. It is not in dispute that a sum of Rs. 29 lakhs was deposited by way of cash in the Savings Bank Account of the assessee. This information was obtained by the Id AO under AIR. The Id AO on receipt of the said information issued notice to the assessee on 27.03.2018 which was duly served upon him asking the source for the said deposits. No response was filed by the assessee for the same. No return of income was also filed by the assessee for AY 2011-12. Accordingly, the Id AO had no other choice but to conclude that income of the assessee to the extent of Rs. 29 lakhs representing cash deposit in bank had escaped assessment warranting reopening of assessment. Hence, I hold that assessment has been validly reopened in the instant case. Accordingly, the grounds raised by the assessee challenging the validity of reopening of assessment are hereby dismissed.
5. On merits, the assessee explained that he had sold a flat for Rs. 43 lakhs. The sale consideration thereon was received in the following manner:-
- |                   |              |
|-------------------|--------------|
| By way of cash-   | Rs. 29 lakhs |
| By way of cheque- | Rs. 14 lakhs |
6. The sale deed was registered however only for Rs. 49 lakhs. The assessee could not produce the confirmation from the buyer of the property that he had paid Rs. 29 lakhs in cash for the property. Accordingly, lower authorities concluded that there was no nexus between alleged receipt of sale consideration in cash of Rs. 29 lakhs and the cash deposit made in the bank account by the assessee and hence the source for cash deposit remains unexplained. With these observations the lower authorities had made an addition towards cash deposit of Rs. 29 lakhs in the hands of the assessee. It is pertinent to note the date of sale was 10.06.2010. The date of cash deposit in bank account was 04.07.2010. Hence, the explanation given by the assessee that he had received cash of Rs. 29 lakhs on sale of property which has been used by him for making cash deposit within a short span of time thereon

proving the nexus between two. It is also not in dispute that the assessee had indeed made reinvestment in purchase of new property on 01.10.2010 for Rs. 52,63,500/-. The assessee in the return filed on 22.05.2018 in response to notice u/s 148 of the Act had declared income of Rs. 5,27,050/- which is nothing but the salary income. Hence, it is proved beyond doubt that the assessee did not have any other source of income except salary which is only Rs. 5.27 lakhs. While this is so how the assessee could have made reinvestment in new property for Rs. 52,63,500/- would become point to ponder. Considering this fact itself, I hold that the explanation given by the assessee that he had received Rs. 29 lakhs in cash on sale of property is to be believed and assessee faithfully had deposited the said sum in his bank account within short span of time. The salary income placed the sale consideration received of Rs. 43 lakhs (both cash and cheque portion) coupled with savings of the past of any enable the assessee to make investment of Rs. 52,63,500/- in the new property. Hence, the explanation given by the assessee that source for cash deposit for Rs. 29 lakhs in the bank account is made out of sale proceeds received in cash is to be believe as there is no other source of income available to the assessee. Accordingly, I hold that there is no cash for making any addition on account of unexplained credits in bank account in respect of cash deposit of Rs. 29 lakhs in the instant case. Accordingly, the grounds raised by the assessee on merits are hereby allowed.

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

Order pronounced in the open court on 15/01/2024.

-Sd/-

**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated:15/01/2024

A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)

5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi