आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI PARESH M. JOSHI, JUDICIAL MEMBER
AND
SHRI ARVIND SONI, ACCOUNTANT MEMBER

ITA No.906/Ind/2024
Assessment Year-2012-13

Sanjay Gupta, 284/2 Sukh Santosh Farm Jambudi Hapsi, Indore	**बनाम/** Vs.	ITO 2(4) Indore
(Assessee/Appellant)		(Revenue/Respondent)
PAN: AHQPG5119H		
Assessee by	Shri Ram Gilda, AR	
Revenue by	Shri Binay Rai Sr.DR	
Date of Hearing	03.09.2026	
Date of Pronouncement	22.10.2026	

आदेश / O R D E R

Per Arvind Soni, A.M.:

This appeal has been filed by the Assessee against the order dated 18.12.2024 passed by the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "the ld. CIT(A)"] for Assessment Year 2012-13 arising out of assessment order framed under section 143(3) of the Income-tax Act, 1961 ("the Act").

2. The assessee filed his return of income under section 139(1) of the Income-tax Act, 1961 (hereinafter referred to as “the Act”),

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on 17.09.2012 for A.Y. 2012-13, declaring total income of Rs. 3,29,332/- and short-term capital loss of Rs. 21,54,100/-. The case was selected for scrutiny on the basis of information received through AIR regarding the sale of immovable property and substantial cash deposits in the assessee's savings bank account. Notice under section 143(2) of the Act was issued on 07.08.2013 and served on 08.08.2013. Subsequently, approval for conversion of the case into complete scrutiny was obtained from the competent authority on 25.02.2015. The Assessing Officer (AO) completed the assessment under section 143(3) of the Act on 25.03.2015, determining total income at Rs.1,35,21,332/-, after making the following additions Rs.1,31,92,000/- as. Short-term capital gain Rs.18,56,000/-, Unexplained investment Rs.53,66,000/- and Unexplained bank credits Rs. 59,70,000/-.

3. Aggrieved by the assessment order, the assessee preferred an appeal before the learned Commissioner of Income-tax (Appeals) [CIT(A)]. Vide order dated 04.01.2017, the learned CIT(A) granted partial relief by deleting the addition of Rs. 43,66,000/- towards unexplained investment and Rs.54,00,000/- towards unexplained bank credits.

4. The assessee carried the matter in appeal before the Tribunal. The Tribunal, vide appeal no ITA/174/IND/2017 dated 31-05-2018 set aside the order CIT(A) restored the matter to the file of the learned CIT(A) for fresh adjudication, restricted to the issues concerning short-term capital gain of Rs. 18,56,000/- unexplained investment of Rs. 10,00,000/- and unexplained bank

credits of Rs. 5,70,000/-. The remaining grounds, including those challenging the validity of the assessment proceedings and conversion into detail scrutiny, were dismissed. Pursuant to the directions of the Tribunal, the learned CIT(A), vide order dated 18.12.2024, sustained the additions of Rs.18,56,000/- as STCG and Rs 10,00,000/- unexplained investment. Regarding unexplained bank credits of Rs 5,70,000/-, the learned CIT(A) directed the AO to verify the credit of Rs 70,000/-. The AO subsequently accepted the explanation in respect of Rs 70,000/- and deleted.

5. Aggrieved by the order dated 18.12.2024, the assessee has preferred the present appeal before the Tribunal, challenging the denial of exemption under section 54B of Rs 18,56,000/- and the additions of Rs. 10,00,000/- towards unexplained investment and Rs 5,70,000/- towards unexplained bank credits. The ground raised by the assessee as under: -

> *"1.That the addition made and sustained of Rs. 18,56,000/- on account of short-term capital gain is illegal, wrong and unjustified.*
>
> *2.That CIT-A/AO failed to make reference to the Department Valuation Officer for the valuation of land sold even after repeated requests.*
>
> *3.That the following additions made and sustained on account of unexplained investment are illegal, wrong and bad-in-law. a. Shri Eknath Nimbore Rs. 10,00,000/- b. Unexplained credit in bank account Rs. 5,70,000/-*
>
> *4.That the appellant craves leave to add, alter amend and/or withdraw any grounds of appeal on or before the hearing of appeal."*

6. The learned Authorised Representative (AR) reiterated the submissions made before the lower authorities and referred to

the documentary evidence placed on record the paper book from page no 1 to 75 on 17-02-2025 and written submission on 13-03-2025. It was submitted that the assessee was entitled to exemption under section 54B against the short-term capital gain arising from the transfer of agricultural land. Regarding the unexplained investment of Rs 10,00,000/-, the learned AR relied upon the confirmation, bank statement, cash-flow statement and income-tax returns of Shri Eknath Nimbore. In respect of the bank credit of Rs 5,00,000/-, reliance was placed upon the confirmation and identity documents of Geeta Devi Sankala, copies of the cheque and the relevant bank statements.

7. Per contra, the learned Departmental Representative (DR) supported the orders of the lower authorities. It was submitted that the assessee failed to establish the agricultural use of the land during the prescribed period immediately preceding its transfer. It was further submitted that the assessee had not claimed exemption under section 54B in the original return of income. Regarding the unexplained investment, the learned DR submitted that the cash-flow statement was unsupported by corroborative evidence and that the assessee had failed to establish the source of substantial cash balances. Regarding the unexplained bank credit, it was submitted that the assessee failed to substantiate the underlying transaction and the alleged cash repayment.

Ground No. 2

8. We have considered the rival submissions and perused the material available on record. We observe that the provisions of section 50C(2)(a) of the Act contemplate that where the assessee claims before the Assessing Officer that the value adopted by the Stamp Valuation Authority exceeds the fair market value of the property as on the date of transfer, the Assessing Officer may refer the valuation of the capital asset to the Departmental Valuation Officer, subject to fulfilment of the prescribed statutory conditions. In the present case, the assessee did not raise any objection before the learned Assessing Officer regarding the adoption of the stamp duty valuation. On the contrary, the assessee furnished a revised computation of income claiming deduction under section 54B of the Act amounting to Rs. 18,56,000/- against the capital gains computed by adopting the stamp duty valuation.

9. The learned Authorised Representative (AR) placed reliance on the decisions of the Hon'ble Jurisdictional Tribunal in the cases of *Sonesh Bhatnagar v. ACIT, Bhopal Motors v. ACIT and Rajkumar Agrawal v. DCIT* in support of the assessee's contention regarding reference of the property valuation to the Departmental Valuation Officer (DVO) under section 50C(2) of the Act. We have carefully considered the judicial pronouncements relied upon by the learned AR in the light of the facts and circumstances of the present case. We observe that the assessee neither disputed the stamp duty valuation before the learned Assessing Officer nor

challenged the adoption of such valuation in the earlier round of appellate proceedings. The objection seeking reference to the DVO has been raised for the first time in the second round of proceedings before the Tribunal.

10. We further observe that the assessee did not challenge the adoption of the stamp duty valuation in the earlier round of appellate proceedings and confined the dispute to the disallowance of deduction under section 54B of the Act. Thus, the assessee neither invoked the provisions of section 50C(2) during the original assessment proceedings nor challenged the valuation in the earlier appellate proceedings. The issue has been raised for the first time in the second round before the Tribunal.

11. In our considered view, where the valuation issue was not kept open by the earlier appellate order ITA / 174/Ind/2017 dated 31-05-2018 and had attained finality, the assessee cannot seek to reopen the same in proceedings arising from a limited remand on ground no 6 & 7. The mere raising of an objection at this stage does not, by itself, justify reopening an issue which falls outside the scope of the proceedings under consideration. Accordingly, having regard to the facts and circumstances of the case and the finality attained by the valuation issue in the earlier proceedings, we find no merit in the ground raised by the assessee seeking reference to the DVO under section 50C(2) of the Act. **The said ground is accordingly dismissed.**

Ground No. 1

12. We have heard the rival submissions and perused the material available on record. The undisputed facts are that the assessee purchased agricultural land on 28.03.2010 for Rs 65,00,000/- and sold the same on 08.10.2011 for Rs 50,00,000/-. The stamp valuation authority adopted the value of the property at Rs 83,56,000/-. The AO applied the provisions of section 50C and determined the short-term capital gain at Rs 18,56,000/- by adopting the value given for stamp paper.

13. During the assessment proceedings, the assessee did not dispute the value adopted by the stamp valuation authority. Instead, the assessee furnished a revised computation claiming exemption under section 54B and submitted that even after adopting the stamp-duty value under section 50C, no taxable capital gain would arise in view of the exemption claimed. Thus, the controversy before us is confined to the allowability of exemption under section 54B against the capital gain so determined the reply of assessee is reproduced as under: -

> ***"That even after consideration of valuation as per the provision of section 50C, i.e. Rs 83,56,000/- and our exemption under section 54B of Rs 37,06,100/-, there will be no liability of capital gain as per computation enclosed herewith"***

14. The provisions of section 54B, as applicable to the assessment year under consideration, provide relief in respect of capital gains arising from the transfer of agricultural land, subject to fulfilment of the prescribed conditions. The provision does not restrict the exemption exclusively to long-term capital

gains. However, it requires that the land transferred must have been used for agricultural purposes by the assessee or his parent during the period of two years immediately preceding the date of transfer.

15. The learned Authorised Representative (AR) placed reliance on the decisions of the Hon'ble Kerala High Court in Asha George v. ITO, reported in (2013) 351 ITR 123, and the Hon'ble Karnataka High Court in M. Abdul Sattar v. CIT, reported in (1987) 163 ITR 642, in support of the assessee's claim for deduction under section 54B of the Act. However, having considered the facts and circumstances of the present case, we find that the aforesaid judicial pronouncements are distinguishable on facts and, therefore, do not advance the case of the assessee. On the other hand, the learned Departmental Representative (DR) placed reliance on the decision of the Hon'ble Punjab and Haryana High Court in CIT v. Dinesh Verma, reported in (2015) 60 taxmann.com, in support of the Revenue's contention regarding the applicability of the conditions prescribed under section 54B of the Act.

16. In the present case, the assessee acquired the land on 28.03.2010 and transferred it on 08.10.2011, thereby holding the property for approximately 18 months. Mere ownership for less than two years is not, by itself, conclusive for denying exemption under section 54B, since the statutory condition relates to agricultural use during the prescribed period by the assesse and his parents and not merely to the period of ownership.

17. Nevertheless, the burden lies upon the assessee to establish, through credible evidence, that the land was used for agricultural purposes by the assessee or his parent during the requisite period. The assessee has not demonstrated, by reference to supporting agricultural records or other reliable evidence, that the statutory condition relating to agricultural use for the prescribed period was satisfied. The mere description of the property as agricultural land in the sale deed does not establish fulfilment of this condition.

18. The contention that exemption cannot be denied merely because it was not claimed in the original return also does not dispense with the requirement of establishing eligibility under section 54B. Although the claim was made through a revised computation during the assessment proceedings, its admissibility before the appellate authority requires examination in accordance with law. The substantive conditions governing the exemption must independently be satisfied. In view of the foregoing, and in the absence of sufficient evidence establishing agricultural use during the prescribed period, we find no reason to interfere with the conclusion of the learned CIT(A) denying exemption under section 54B. Accordingly, the addition of Rs18,56,000/- towards short-term capital gain is sustained. Thus, the ground no.1 is dismissed.

Ground No.: 3

Ground No. 3: Addition of Rs 10,00,000 towards unexplained Investment

19. We have considered the rival submissions and examined the material placed on record. The issue relates to the source and genuineness of the payment of Rs 10,00,000/- stated to have been made in connection with the purchase of agricultural land.

20. The assessee contended that an amount of Rs 10,00,000/- was paid in cash to Shri Eknath Nimbore on 02.12.2011 for onward payment to the seller. However, Shri Eknath Nimbore subsequently issued a cheque dated 27.01.2012 for Rs 10,00,000/- from his IDBI Bank account. The assessee relied upon the confirmation, bank statement, cash-flow statement and income-tax returns of Shri Eknath Nimbore to substantiate the transaction.

21. On examination of the material, we observe that the assessee has failed to satisfactorily establish the source of the cash payment and the genuineness of the arrangement through which the amount was routed. The cash-flow statement relied upon by the assessee reflects an opening cash balance of Rs 24,07,642/- as on 01.04.2011, but the same has not been substantiated by supporting records or independent evidence.Further, the bank statement reflects cash deposits of Rs. 6,00,000/- on 30.01.2012 and Rs.10,00,000/- on 31.01.2012, subsequent to the issuance of the cheque dated 27.01.2012. The

assessee has not furnished satisfactory evidence establishing a direct nexus between the alleged cash payment made on 02.12.2011 and the subsequent banking transaction.

22. The confirmation and income-tax returns of Shri Eknath Nimbore, by themselves, do not conclusively establish the source and genuineness of the disputed payment. The learned CIT(A) has examined the surrounding circumstances and recorded reasons for rejecting the explanation offered by the assessee as under: -

> "***The appellant has failed to establish the genuineness of the transaction, if the amount was to be paid by cheque the it could easily have given from the account of the appellant. Otherwise also appellant could have directly made cash payment. The creation of this circuitous channel is to give a colour of authenticity, so that in the deed payment is reflated as having been made through banking channels and cash deposit are screened from scrutiny. Simply stated the payment of Rs 10,00,000/- in cash in account of Shri Eknath Nimbore stands not satisfactorily explained hence the addition is confirmed in appeal."***

The material placed before us does not satisfactorily rebut those findings.

23. Considering the facts and circumstances of the case and the failure of the assessee to establish the source and genuineness of the investment through reliable supporting evidence, we find no infirmity in the findings of the learned CIT(A). Accordingly, the addition of Rs 10,00,000/- is sustained.

Ground No. 3: Addition of Rs.5,00,000/- towards unexplained bank credit

24. The issue relates to a credit of Rs. 5,00,000/- received by the assessee through cheque dated 24.05.2011 from Geeta Devi Sankala. The assessee contended that the amount represented an advance received against a proposed sale of agricultural land, which was subsequently cancelled, and that the advance was repaid in cash during December 2011. In support of the contention, the learned AR relied upon the confirmation letter, copies of the Aadhaar card and PAN card of Geeta Devi Sankala, photocopy of the cheque and bank statements of the parties.

25. We observe that although the assessee has furnished certain documents establishing the identity of Geeta Devi Sankala and the receipt of money through banking channels, no agreement to sell, cancellation agreement, receipt acknowledging cash repayment or other contemporaneous evidence establishing the underlying property transaction and its subsequent cancellation has been brought on record.

26. The assessee has also failed to substantiate the alleged cash repayment of Rs 5,00,000/- through reliable documentary evidence. The mere receipt of an amount through banking channels and furnishing of identity documents do not, in themselves, establish the nature and genuineness of the transaction, particularly when the explanation is based upon an alleged property transaction which remains unsupported by contemporaneous records.

27. In the absence of satisfactory evidence substantiating the nature and genuineness of the credit, we find no reason to interfere with the findings of the learned CIT(A). Accordingly, the addition of Rs. 5,00,000/- is sustained. Thus, the ground no.3 is dismissed.

28. In the result, the appeal filed by the assessee is **dismissed**.

Order pronounced in open court on 22/10/2026

Sd/- Sd/-

(PARESH M.JOSHI) (ARVIND SONI)
JUDICIAL MEMBER ACCOUNTANT MEMBER
Indore
दिनांक /Dated : 22/10/2026
Patel/Sr. PS

Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore

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