

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER**

**AND**

**MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.3047/Del/2019**

**Assessment Year: 2014-15**

<b>ACIT Circle – 45 (1) New Delhi</b>	<b>Vs</b>	<b>Vibha Taneja R-01B, 3<sup>rd</sup> Floor, TDI Mall, Shivaji Place, District Centre, Rajouri Garden, New Delhi-110027 PAN No.AAFPT1050J</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

<b>Appellant</b>	<b>Sh. P.N. Barnwal, CIT DR</b>
<b>Respondent</b>	<b>Sh. Tarandeep Singh, CA</b>

<b>Date of Hearing</b>	<b>01.11.2023</b>
<b>Date of Pronouncement</b>	<b>3.11.2023</b>

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the revenue is preferred against the order of the CIT(A)-15, Delhi dated 30.01.2019 pertaining to A.Y. 2014-15.

2. The solitary grievance of the revenue is that the CIT(A) erred in deleting the addition of Rs.12.50 crores made by the AO to the

income of the assessee on account of unexplained money u/s.69A of the Act.

3. Briefly stated the facts of the case are that during the course of the scrutiny assessment proceedings the AO noticed that the assessee has shown long term capital gain on the sale of 1/3<sup>rd</sup> share in the property at Rani Jhansi Chowk, Delhi and has claimed exemption u/s. 54 of the Act.

4. On further probe the AO found that the husband of the assessee had purchased the said property from M/s. Glorious Housing & Land Development Pvt. Ltd. vide agreement to sell dated 22.03.2006 for a consideration of Rs.16005000/-. Subsequently 1/3<sup>rd</sup> share of the said property was given as a gift to the assessee by her husband on 01.05.2006. 1/3<sup>rd</sup> share was valued Rs.53.35 lacs which was subsequently sold on which long term capital gains was earned by the assessee on which exemption u/s.54 was claimed.

5. The AO rubbished the entire transaction by dismissing the gift as the same was not evidenced by a registered gift deed. The AO further noticed that M/s. Glorious Housing and Land Development Private limited executed the deed on 08.11.2011, therefore, the assessee could not have gifted the property on 01.05.2006.

6. Dismissing all the evidences, the AO came to the conclusion that no portion of the property at Rani Jhansi Chowk, Delhi has been transferred to the assessee by way of gift, therefore, the assessee could not have sold and earned long term capital gains, therefore, the amount of Rs.12.50 crores credited in her bank

account was treated as income of the assessee u/s.69A of the Act and addition of Rs.12.50 crores was made.

7. Assessee carried the matter before the CIT(A) but reiterated her claim of long term capital gains.

8. After considering the facts and the submissions and drawing support from the decision in the case of Balbir Singh Maini 398 ITR 531 the CIT(A) came to the conclusion that the documents need to be registered under transfer of property Act but the AO has failed to appreciate that under the provisions of section 2 (47) (vi) defacto transfer of any immovable property are covered.

9. The CIT(A) further opined that pursuant to the gift deed the assessee was in full possession of the property and further entered into an agreement to sell and sold the said property for a consideration of Rs.12.50 crores which was invested in another residential property on which exemption u/s.54 was claimed.

10. On these facts the CIT(A) deleted the impugned addition.

11. Before us the DR strongly supported the findings of the AO and read the operative part.

12. The Counsel reiterated what has been stated before the lower authorities.

13. We have given a thoughtful consideration to the orders of the authorities below. It is true that the impugned property was purchased by the husband of the assessee and 1/3<sup>rd</sup> share in the said property was subsequently gifted by him to the assessee. No doubt the gift deed was not registered but the same cannot be

rubbished as the sham transaction since the assessee was in full possession of the said property which was subsequently sold by her by way of a registered sale deed for a consideration of Rs.12.50 crores which was credited to her bank account held with HDFC Bank. By no stretch of imagination provisions of section 69A can be applied on such transactions as the credit is outcome of the sale of property. It is not a case of the revenue that the assessee has introduced her own unaccounted money by depositing the same in her bank account in the garb of sale of some immovable property.

14. Considering the facts of the case in totality we do not find any reason to interfere with the findings of the CIT(A). The appeal of the revenue is dismissed.

The order is pronounced in the open court on 3.11.2023.

Sd/-  
**[ASTHA CHANDRA]**  
**JUDICIAL MEMBER**

Sd/-  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: November, 2023.

Neha, Sr PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi