

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'G' NEW DELHI)**

**BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

ITA No. 1887/DEL/2023 (A.Y. 2016-17)

Shyam Sunder Bang M-6, Greater Kailash Part 2, New Delhi PAN: AAFPB2321L	Vs.	ACIT Central Circle 8 ARA Centre, Jhandewalan Extension, New Delhi
Appellant		Respondent
Assessee by	Sh. Rohit Tiwari, Adv and Ms. Tanya, Adv	
Revenue by	Ms. Jaya Chaudhary, CIT(DR)	
Date of Hearing	27/02/2025	
Date of Pronouncement	17/04/2025	

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Assessee against the order of the Commissioner of Income Tax (Appeal) [‘Ld. CIT(A)’ for short] dated 29/05/2023 for the Assessment Year 2016-17.

2. The grounds of Appeal are as under:-

“1. Because order is bad in law and facts of the case as there was no valid jurisdiction available with the Ld. ACIT.

2. Because the addition made on account of unexplained by the officer on the basis of loose paper does not conclusively established about the transaction in view of the both assessee on whom search conducted and the petitioner denied.

3. Because the conflicting notice issued by the Mumbai Tax Authority and the assessment made by the Delhi Tax Authority.

4. Because the satisfaction note recorded and satisfied by Ld. DCIT Mumbai it self bad on the face of it.

5. Because transferring of jurisdiction without giving any opportunity to the assessee is bad on 26-10-2022

6. Because notice U/s 143(2) of the Act is bad

7. Because there was no incriminating documents found during the course which itself indicate the name of the assessee hence the entire proceedings are bad.”

3. Brief facts of the case are that, a Search and seizure action u/s 132 of the Income Tax Act, 1961 ('Act' for short) was conducted in the case of NavneetDawar& others Group on 03.01.2018, whereby residences and business premises of various persons including Sh. NavneetDawar, Sh. Anil Narang, and Sh. Gurvinder Singh Duggalwere covered. A Search warrant of authorization, u/s 132 of the Act was issued in the name of Sh. Gurvinder Singh Duggal. The premises of Sh. Gurvinder Singh Duggal at G-9, Greater Kailash- III, Masjid Moth, New Delhi was also covered during the search. During the search and seizure operation, certain documents/papers mentioned as Page 137 of Annexure A-13 'belonging to the Assessee' was found and seized/impounded from the said premises.

4. The Assessee filed his original return u/s 139(1) of the Act declaring an income of Rs. 3,72,30,940/- for Assessment Year 2016-17. A proceedings u/s 1543C of the Act was initiated and based on the document found from the premises of Gurvinder Singh Duggal, an addition has been made in the hands of the Assessee u/s 69B of the Act on account of unexplained investment to the tune of Rs. 30,00,000/- by way of the assessment order dated on 31/12/2022 passed u/s 153C of the Act. Aggrieved by the assessment order dated 31/12/2022, the Assessee preferred Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 29/05/2023, dismissed the appeal filed by the Assessee. Aggrieved by the order of the Ld. CIT(A) dated 29/05/2023, the Assessee preferred the present Appeal on the grounds mentioned above.

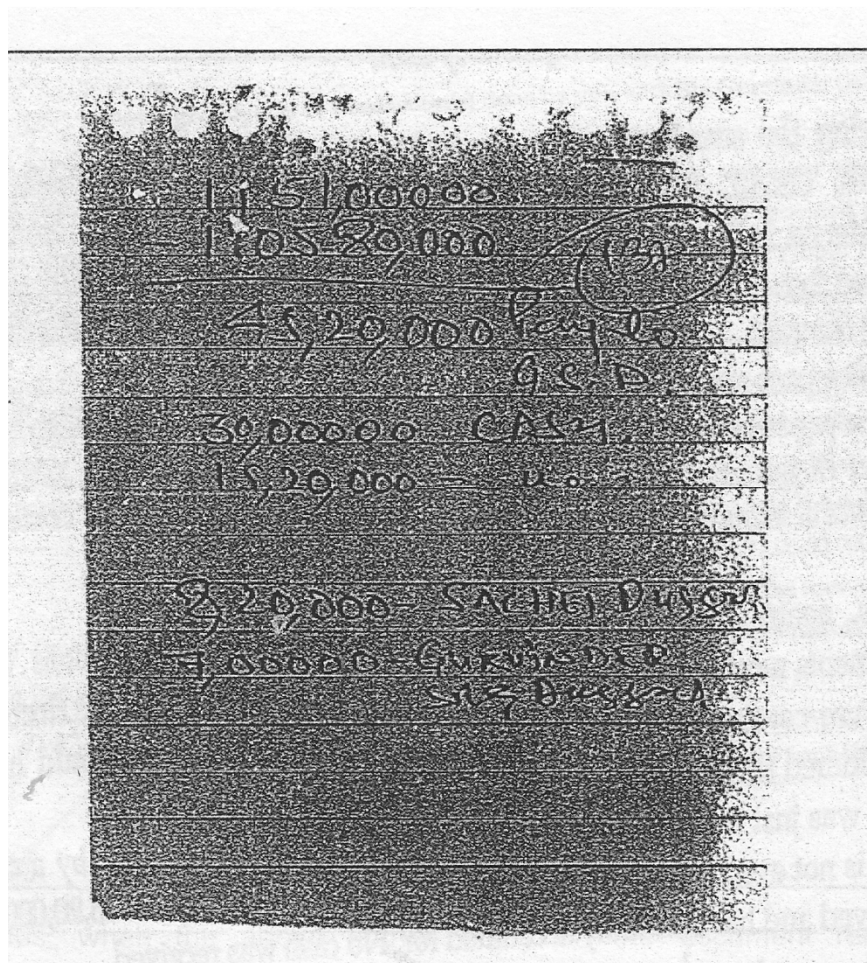
5. The Ld. Counsel for the Assessee submitted that the seized document was not belongs the Assessee, nor does it bear the name or signature of the Assessee and the alleged seized document is not even in the hand writing of the Assessee or the hand writing of search person Mr. Gurvinder Singh Duggal. Further submitted that the said Gurvinder Singh Duggal has also denied receiving any such cash payment. The Ld. Assessee's Representative further contended that all the payments related to property transactions were made through banking channel and no cash transaction took place, thus, submitted that the addition made

by the A.O. on the basis of loose unsigned paper found at the premises of third party cannot be made basis for the addition without their being any corroborative evidence. The Assessee's Representative relying on plethora of Judgments, sought for allowing the Appeal.

6. Per contra, the Ld. Department's Representative relying on the orders of the Lower Authorities sought for dismissal of the Appeal.

7. We have heard both the parties and perused the material available on record. The Ld. A.O. while making the addition of Rs. 30,00,000/-, observed that the Assessee had made an unexplained investment of Rs. 30,00,000/-in a property transaction which was not reflected in the books of accounts and while doing so, the Ld. A.O. has relied on the loose unsigned hand written paper found at the premises of third party. It is a matter of fact that the said document has been seized in the premises of the searched person Mr. Gurvinder Singh Duggal. It is also on record that the said Gurvinder Singh Duggal has denied receiving any cash payment. It was the specific case of the Assessee that all the payments related to the property transaction were made via banking channels and no cash transaction took place in the said transaction. The seized document does not contain the signature of the Assessee and the same is not in the hand writing of the Assessee or the seized person

for the sake of convenience and ready reference, the seized document is reproduced as under:-



8. The Co-ordinate Bench of the Tribunal in the case of ACIT Vs. LataMangeshkar 97 ITD 53 held that unsigned, unverified papers cannot form the basis for addition u/s 69B of the Act. Further, the Hon'ble Supreme Court in the case of Common Cause Vs. Union of India (2017) 394 ITR 220(S.C) also held that loose papers cannot be considered as

admissible evidence for making an addition unless backed by independent corroborative material.

9. In the present case, the loose sheet has been recovered from the searched person i.e. Gurvinder Singh Duggal who is a third party, which bears no signature of either the Assessee or searched person and the same is not in the hand writing of either searched person or the Assessee. Further, the Gurvinder Singh Duggal has specifically denied receiving any cash payment. In the absence of any corroborative material brought on record during the assessment proceedings, the Assessing Officer has committed error in making the addition based on the said loose sheet. Therefore, in our opinion, the Ld. CIT(A) has erred in upholding the addition made by the A.O. Finding merits in the Grounds of Appeal of the Assessee, the addition of Rs. 30,00,000/- made u/s 69B of the Act, which has been sustained by the Ld. CIT(A) is hereby deleted.

10. In the result, the Appeal of the Assessee is allowed.

Order pronounced in the open court on 17th April, 2025

Sd/-

(BRAJESH KUMAR SINGH)
ACCOUNTANT MEMBER

Date:- 17.04.2025

Sd/-

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

R.N, Sr.P.S*

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1. **Appellant**
2. **Respondent**
3. **CIT**
4. **CIT(Appeals)**
5. **DR: ITAT**

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**