

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: E : NEW DELHI

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.957/Del/2025
Assessment Year: 2013-14

Sunil Kumar,
A-14, Nehru Ground,
NIT, Faridabad,
Haryana – 121001.

Vs Income Tax Officer,
Ward 1(4),
Faridabad.

PAN: AHCPJ5928R

(Appellant)

(Respondent)

Assessee by : Shri Praveen Kumar Misra, CA
Revenue by : Shri Vipul Kashyap, Sr.

Date of Hearing : 07.08.2025
Date of Pronouncement : 20.08.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 05.02.2025 of the Commissioner of Income-tax (Appeals), NFAC, Delhi (hereinafter referred to as the Id. First Appellate Authority or ‘the Ld. FAA’ for short) in Appeal No.NFAC/2012-13/10070880 arising out of the appeal before it against the order dated 15.09.2021 passed u/s 147 r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred as ‘the Act’) by the National Faceless Assessment Centre, Delhi (hereinafter referred to as the Ld. AO).

2. Heard and perused the record. The issue arises out of addition of Rs. 1,40,00,000/-, being consideration amount mentioned in conveyance deed, executed by late Sunil Kumar, as received, from his wife Mrs Bimila Devi, who was alleged purchaser. Ld. AO treated same as undisclosed income on account of capital gain on transfer of immovable property to spouse. The assessee, deceased now represented through son, is an individual who filed his original return of income on 19.06.2013 declaring total income of Rs. 1,98,030/. The assessee was suffering from kidney ailments and has expired on 15.04.2025. The case of the assessee was reopened under section 147 of the Income Tax Act, 1961 on account of transaction of transfer of immovable property for consideration of Rs. 1,40,00,000/-. Due to COVID - 19 pandemic and bad health the assessee could not comply with the notices issued under section 142(1) of the Act. Final show cause notice dated 07.09.2021 was issued to the assessee proposing to make an addition of Rs. 1,40,00,000/- on account of capital gain being sale consideration for transfer of immovable property to submit response by 13.09.2021. The assessee filed response on 13.09.2021 submitting that he had transferred immovable property A-14, Nehru Ground, NIT, Faridabad (Haryana) to his wife Smt. Bimla Devi on 30.11.2012 and he had not received any consideration towards the transfer of property. The consideration amount of Rs. 1,40,00,000/- mentioned in the conveyance deed was for the purpose of payment of stamp duty to facilitate the transfer of property in revenue records only and no money consideration had exchanged

hands on account of the transfer of said property. The assessee filed copies of bank accounts to substantiate the fact that no consideration was received towards the transfer of property. Same are also relied before us. The assessment was framed ex parte by the National Faceless Assessment Centre vide order dated 15.09.2021 and ld. CIT(Appeals) sustained the addition of Rs.1,40,00,000/- holding that:

“5.1.2..... the claim of the assessee that the said transfer was effected without any receipt of sale consideration is also found to be incorrect as it has been clearly mentioned in the sale deed that entire sale consideration has been received by the assessee and nothing is pending to be paid by his wife on the date of execution of sale deed. Therefore, the AO is found to be correct in his action of charging a sum of Rs. 1,40,00,000/- as capital gains to the Total Income of the assessee as no details about the purchase consideration for the impugned Property has been brought on record by the assessee.”

(para 5.1.2 at page 19 of appellate order)

3. Ld. AR has submitted that the transaction of transfer of immovable property was between the husband and wife without a consideration and was, in fact, compelled due to the bad health of the assessee and on going family disputes over the property existing on the date of transfer which is substantiated by the fact that the disputes were settled through family settlement on 30.10.2018 copy of which is pages PB 45 to 50. The consideration amount of Rs. 1,40,00,000/- was mentioned in the conveyance deed for the purpose of payment of stamp duty only and to facilitate the transfer of property in revenue records. In reality no money had exchanged hands for transfer of the property resulting into earning of capital gain. The copies of bank accounts submitted by

the assessee before the Assessing Authority & CIT(Appeals) also substantiate the fact that no consideration was received by the assessee towards execution of conveyance deed in favour of his wife.

4. Though Id. DR has defended the impugned additions and submitted that if there was family settlement there was no need for sale deed and the defence is after thought story. However, what is relevant is that in the conveyance deed it is mentioned and verified by the sub-registrar that 'NIL' consideration/ amount was paid by vendor to vendee. The bank account statement of wife of assessee do not indicate there was any source of wife to have arranged funds from the bank. In any case when wife herself has deposed on affidavit that no amount was paid then treating her to be an independent assessee, Id. AO could have examined the issue further in her hands. In any case, when wife could have been benefited by family settlement or even by gift deed, to transfer title without payment of consideration then it will not be justified to allege intention to conceal any capital gains. Thus payment of consideration seems to be a sham transaction. Id. Tax authorities have failed to have prudent approach to the issue.

5. The appeal is allowed. Impugned addition is deleted.

Order pronounced in the open court on 20.08.2025.

Sd/-

(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER
Dated: 20th August, 2025.

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

dk

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi