

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC' NEW DELHI
BEFORE SHRI B.P. JAIN, ACCOUNTANT MEMBER**

**ITA No.1371/Del/2017
Assessment Year 2011-12**

Abha Tyagi 7, Sarwat Gate North	Vs.	ITO Ward-1(1) Muzaffarnagar
PAN-AEGPT1765D		
(Appellant)		(Respondent)

Appellant by :	Sh. Ankit Gupta, Adv
Respondent by :	Sh. T. Vasanthan, Sr. DR

सुनवाई का तारख/Date of Hearing : 03/10/2017
घोषणा का तारख/Date of Pronouncement: 05/10/2017

ORDER

PER B.P. JAIN, A.M.

This appeal of the assessee arises from the order of learned CIT(A), Muzaffarnagar, vide order dated 28.12.2012 for the Assessment Year 2011-12. The assessee has raised as many twelve grounds of appeal including the legal as well as the grounds on merit. The assessee prefers only the legal grounds no. 1, 2 and 3 which are reproduced hereinbelow:-

- 1) *That the notice issued u/s 148 and reassessment order passed u/s 147 r.w.s. 143(3) are illegal, bad in law and without jurisdiction.*
- 2) *That, in view of the facts and circumstances, no satisfaction is recorded by the assessing officer as required u/s 147/148 of the Act prior issuing the notice under section 147 of the Income Tax Act, 1961.*
- 3) *That, no satisfaction has been recorded by the assessing officer after*

application of mind on the basis of tangible material, which have live nexus to the income, which have escaped assessment and merely relied on the information received from NMS, which is vague, incorrect and baseless, hence, the proceedings initiated is illegal, and bad in law and without jurisdiction.

2. I have heard the rival contentions and perused the facts of the case. At the outset, the learned counsel for the assessee Mr. Ankit Gupta, Advocate pointed out the reasons recorded by the AO which are reproduced hereinbelow:-

“In this case as per NMS information received from the system of AY 2011-12 regarding deposit of cash more than Rs. 1000000/- in saving bank account. To verify the source of income as letter dated 10.3.2014 was issued to the assessee. In response to notice the assessee has not submitted any reply in regard the depositing in saving bank account F.Y. 2010-11 (Assessment year 2011-12).

In view of the above facts I have reason to believe that the income of the assessee which is chargeable to tax is escaped assessment.

3. From the reading of the reasons it is evident that simply cash deposit has been taken to be income escaped from assessment by the AO without assigning any valid reasons of whatsoever kind. Reasons are vague, arbitrary and does not give rise to any escapement of income and therefore the case from all the four corners of law does not fall within the ambit of Section 147/148 of the Act. Therefore, the AO does not acquire any jurisdiction for assessment / reassessment for the impugned year and the assessment / reassessment so made is directed to be quashed.

4. The learned counsel for the assessee relied upon the decision of Delhi Tribunal reported in (2015) 53 taxmann.com 366 in the case of

Bir Bahadur Singh Sijwali vs. ITO, Haldwani in the identical issue where it has been held that Assessing Officer issued notice under Section 148 on the ground that there was an escapement of income. From the cash deposits in the bank, it was held that Assessing Officer proceeded on fallacious assumption that bank deposits constituted and disclosed income and overlooked fact so deposited could not necessarily be income of the assessee. Accordingly, reassessment proceeding in that case was set aside and case was decided in favour of the assessee. On identical issue, the present case has also been set aside and assessment so made has been directed to be quashed.

5. In the result, the appeal of the assessee in ITA No. 1371/Del/2017 is allowed.

Order pronounced in the open court on this day 5.10.2017.

Sd/-
(B.P. JAIN)
ACCOUNTANT MEMBER

Dated: 05/10/2017

SH

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation	
2.	Date on which the draft is placed before the Dictating Member	
3.	Draft placed before the other Member	
4.	Approved draft comes to the Sr. PS/PS	
5.	Kept for pronouncement on	
6.	Final order received after pronouncement	
7.	File sent to the Bench Clerk	
8.	Date on which files goes to the Head Clerk	
9.	Date on which file goes to the Assistant Registrar	
10.	Date of dispatch of order	