

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष  
BEFORE: SHRI VIJAY PAL RAO, JM AND SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 328/JP/2017  
निर्धारण वर्ष / Assessment Years : 2008-09

Smt. Sushila Devi Agarwal, Jaipur.	बनाम Vs.	ITO, Ward-5(5), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. ABCPA 6688 D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारित की ओर से / Assessee by : Shri Rajeev Sogani (CA)  
राजस्व की ओर से / Revenue by: Shri Anoop Singh (JCIT)

सुनवाई की तारीख / Date of Hearing : 15.02.2018.  
घोषणा की तारीख / Date of Pronouncement : 27/02/2018.

आदेश / ORDER

**PER: VIKRAM SINGH YADAV, AM**

The appeal is filed by the assessee against the order of Ld. CIT(A), Ajmer dated 07.03.2017 for the A.Y. 2008-09. The grounds raised by the assessee are as under:-

"1. (a) In the facts and circumstances of the case and in law the Ld. CIT(A) has erred in confirming the action of the Ld. AO in reopening the assessment u/s 147 of Income Tax Act, 1961. The action of the Ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the reassessment proceedings being illegal and without any basis.

(b) In the facts and circumstances of the case and in law the Ld. CIT(A) has erred in confirming the action of the Ld. AO in reopening the assessment u/s 147 of Income Tax Act, 1961 whereas provisions of Section 153C were applicable under the facts and circumstances of the case. The action of the Ld. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing

*the reassessment proceedings u/s 147 being illegal and without any basis.*

2. *In the facts and circumstances of the case and in law the Ld. CIT(A) has erred in confirming the action of the Ld. AO in completing the assessment ex-parte under section 144 of the I.T. Act, 1961. The action of the Ld. CIT(A) is illegal, unjustified and arbitrary. Relief may please be granted by quashing the entire assessment order being illegal and violative of the principles of natural justice.*
3. *In the facts and circumstances of the case and in law the Id. CIT(A) has erred in confirming the action of the Id. AO in making addition of Rs.74,22,385/- towards alleged unexplained investments in construction of house of the assessee u/s 69 of the I.T. Act, 1961. The action of Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by deleting the said addition of Rs. 74,22,385/-.*

2. Briefly the facts of the case are that, the assessee filed her return of income declaring total income of Rs. 2,79,530/- which was processed u/s 143(1) of the Act. Subsequently, the notice u/s 148 was issued to the assessee for the reasons that the assessee has made unexplained investment in construction of house amounting to Rs. 74,22,385/-, source of which has remained unexplained, thus, the income has escaped assessment. In view of the non-compliance to the said notice issued u/s 148 and subsequent notice issued u/s 142(1), the assessment was completed u/s 144 on the basis of information available on record and the AO made an addition of Rs. 74,22,385/- as an unexplained investment in construction of house u/s 69 of the Act. The Id. CIT(A) has since confirmed the said addition in the hands of the assessee.

3. In ground nos. 1, the assessee has challenged the reopening of the assessment u/s 147 as against the provisions of Section 153C of the Act. In this regard, the Ld. AR of the assessee has reiterated the written submissions.

The submission of the Id. AR is reproduced as under:-

*"1.1. Ld. CIT(A) has upheld the validity of recourse to section 147 (instead of section 153C) for the reason that the assessment of the appellant was reopened in consequence of the order of the Hon'ble ITAT Hyderabad Bench in the case of Shri Pradeep Kumar Agarwal son of the appellant [CIT(A) Pg 7]*

*1.2. Attention is drawn towards the remand report of the Ld. AO reproduced at page 5 of the Ld. CIT(A) order. It is categorically mentioned by the Ld. AO that information was received from DCIT Central Circle-1(3), Hyderabad dated 17.11.2014. The reasons for reopening were recorded on 10.02.2015. Thus, the reopening was triggered on receipt of information from DCIT Central Circle-1(3), Hyderabad. It may be noted that ACIT Central Circle-6, Hyderabad had completed the search assessments of Shri Pradeep Kumar Agarwal. Thus, the information was conveyed under section 153C to the AO of the present appellant, therefore, the assessment should have been completed by taking recourse to section 153C and not by invoking the provisions of section 147.*

*1.3. It is submitted that material gathered during the course of search, as per the scheme of the I.T Act, 1961, are handed over to the AO of the searched person because of the presumption contained under section 132(4A). The AO has to decide, in the background of section 132(4A), whether the income pertains to the searched person or to a*

*third person not searched. To give effect to this, legal proposition of the scheme of the Act, the assessment of the third person (not searched), based on material gathered during search has to be completed under section 153C alone.*

*1.4. Ld. CIT(A) at page 7 of his order has erred in observing that no document showing the unexplained investment by the present appellant was seized by the department. At page 6 of the assessment order of Shri Pradeep Kumar Agarwal [PB 9 Para 5] there is clear mention of certain bills/delivery challans found. Without agreeing, these related to Smt. Sushila Devi Agarwal, therefore, section 153C alone could be invoked.*

*1.5. What can be a better proof that material gathered in search is used against the appellant than the fact that same material is used for framing assessments for some undisclosed investment in the hands of the searched person, although protectively, and the same evidences are used for making same additions in the hands of the appellant on substantive basis.*

*1.6. Reliance is placed on the following judicial pronouncements:*

***i) Hon'ble Jurisdictional ITAT Jaipur Bench in the case of Navrattan Kothari vs. ACIT - ITA No. 425/JP/2017***

*".. Thus it reveals from the assessment order that after the initial assessment u/s 143(3) r.w.s. 153A the AO got the alleged incriminating material in the shape of diary and transactions recorded therein found and seized in the search and seizure operation in case of Rajendra Jain Group. Accordingly, the AO proceeded to reassess the income of the assessee u/s 147 of the Act. The entire decisions of the AO to reassess*

*the income of the assessee is based on the seized material and statement of Shri Madan Mohan Gupta recorded u/s 132(4) of the Act for which the specific remedy is provided u/s 153C of the Act. For ready reference we quote section 153C as under*

.....

*This section begins with non-obstante clause and therefore, has an overriding effect on the Sections 147 & 148 of the Act. As per the scheme and object of Section 153C r. w. s 153A, the AO has no discretion or choice to invoke the provisions of Section 147/148 instead of section 153C r.w.s. 153A of the Act. Once the case of reassessment is made out by the AO which falls in the preview of specific provisions of section 153C of the Act, the AO cannot resort to invoke the provisions of Section 147/148 of the Act to assessee or reassess income of the assessee. The action of the AO to initiate the proceedings under section 147/148 of the Act vitiates the entire reassessment proceedings and the assessment order. Once, the AO is satisfied that the documents seized belong to the persons other than the searched person, the Assessing Officer shall proceed against such other persons and issued notice u/s 153C and assessee or reassess income of such other persons in accordance with the provisions of section 153A of the Act. Therefore, it is mandatory for the AO to proceed u/s 153C if he is satisfied that the seized material reveals the income of such other persons to be assessed or reassessed. The Amritsar Bench of this Tribunal in case of ITO vs. Arum Kumar Kapoor (supra) while deciding an identical issue of validity of initiation of proceedings u/s 147/148 on the basis of seized material has held in paras 7.2 and 8 as under:-*

.....

*A similar view was taken by the Visakhapatnam Bench of this Tribunal in case of G. Koteswara Rao vs. DCIT (supra) in para 11 to 17 as under: [CLC 20]*

.....

*Thus, it is clear that the Tribunal has taken a consistent view on this issue and further the Delhi Benches of this Tribunal in case of Rajat Shubra Chatterji vs. ACIT (supra) has held in para 7 as under:-*

.....

*Therefore, in conjoint reading of provisions of section 153A, 153C and 147/148 of the Act as well as a consistent view taken by this Tribunal in a series of decision cited (supra) we hold that the assessment or reassessment of income of the person other than search persons based on seized material can be only be made u/s 153C r. w. s. 153A and the provisions of section 147/148 of the Act are not applicable in such cases. No contrary decision has been brought to our notice. Accordingly, we hold that initiation of proceedings u/s 147/148 by the AO to reassess the income is illegal being without jurisdiction and consequently the reassessment order passed u/s 147 r.w.s. 143(3) is also illegal and void abinitio and is liable to be quashed....”*

- ii) Arun Kumar Kapoor [2011] 140 TTJ 249 (Amritsar)
- iii) G. Koteswara Ral [2015] 64 taxmann.com 159 (Visakhapatnam – Trib.)
- iv) Rajat Shubra Chatterji, ITA No. 2430/Del/2015, ITAT Delhi Bench

*1.7. Ld. CIT(A) has also referred to the provisions of section 150(1) with respect to the order of Hon'ble ITAT Hyderabad. It is submitted that the said order of the Hon'ble ITAT did not contain any direction for*

*making additions in the hands of the appellant Smt. Sushila Devi Agarwal. Attention is invited towards Serial No. 10 of the Form used for recording reasons. Ld. AO has categorically mentioned NO against the column "whether the provisions of section 150(1) are applicable?"*

*1.8. It is submitted that section 150 is designed for providing relaxation in time limits prescribed under section 149. In the instant case the notice issued for reopening is otherwise within time limit;"*

4. Per contra, the Id DR vehemently argued the matter and supported the findings of the Id CIT(A) which are reproduced as under:-

*"I have gone through the assessment order, statement of facts, grounds of appeal and written submission carefully. It is seen that the assessment was reopened as the AO had reason to believe that appellant had made unexplained investment in construction of house amounting to Rs. 74,22,385/-. The amount of unexplained investments was determined on the basis of DVO's report. This addition was also made in the hands of Shri Pradeep Kumar Agarwal, son of the appellant on protective basis. However, the ITAT Hyderabad Bench while deciding the appeal of Shri Pradeep Kumar Agarwal (ITA No. 1092/Hyd/2013) deleted the addition observing at para 20 of the order as under:*

*"20. We have considered the rival submissions and perused the impugned orders of the Revenue authorities and other material available on record. It is an undisputed fact that the land on which building was ITA No.1092/Hyd/2013 & six others Shri Pradeep Kumar Agarwal, Hyderabad constructed, was in the name of assessee's mother. It is for this reason that the Assessing Officer has made only protective addition on account of unexplained investment in the contrition of the building, in the hands of the assessee. Observing that there is no evidence as to the person in whose hands the unexplained*

*investment was assessed on substantive basis, the CIT(A) treated the protective addition made in the hands of the assessee, as a substantive one. We are not in agreement with the view taken by the CIT(A) in this behalf. It is settled principle of law that any income has to be assessed in the hands of right person. Since the land on which the building was constructed as in the name of assessee's mother, right person to be assessed in respect of unexplained investment in the construction, was assessee's mother and not the assessee, and it on this ground only that the Assessing Officer, has made only protective addition in the assessment of the assessee. Unless fate of the assessment of the person, in whose hands, substantive addition is due is decided, there is no warrant to tinker with the protective nature of the addition made. The protective addition made becomes substantive one, only if in the case of the person, in whose hands substantive addition was to be made, it was found that that person was not the right person to be assessed in respect of such investment, and the person, in whose hands protective addition has been made, is the right person to be assessed in respect of such investment. Further, merely because the assessee is in exclusive possession and enjoyment of the property, it cannot be said that he is the person in whose hands substantive addition is due. Even the other facts, such as, bills for material, etc. are in the name of the assessee, do not clinch the issue, against the assessee, because assessee's mother being a lady, and may be even aged and not staying locally, it is quite possible that the assessee has played key role in the construction of the property, on behalf of his mother. Further-, on purchase bills and other papers, often, for the convenience of delivery of material, easy identification etc., instead of exposing the woman, names of head of family or other prominent male members of the family are mentioned. In any event, Revenue has not brought on record any clinching evidence, to conclude that the unexplained ITA No.1092/Hyd/2013 & six others Shri Pradeep Kumar Agarwal, Hyderabad investment has indeed been made by the assessee only. For all these reasons, we do not agree with the view taken by the CIT(A), in treating the addition made on protective basis by the Assessing Officer, into a substantive one and in confirming the same. If at all, any addition on account of unexplained investment is warranted, it would lie in the assessment of assessee's mother, who is the actual owner of the land and the constructed property, and not in the hands of the assessee. We accordingly allow the grounds of the assessee on this issue, in his appeal for assessment year 2008-09."*

*The assessment of the appellant was reopened in consequence of the above mentioned observation of the ITAT Hyderabad. The argument of the appellant that the case of the appellant could not have been reopened u/s 147, as according to the appellant, the present reassessment is triggered on account of search operation carried out in the case of Shri Pradeep Kumar Agarwal, son of the appellant. According to the appellant, the assessment in the case of the appellant could have been made only u/s 153C. In order to examine the contention of the appellant, it would be pertinent to reproduce the relevant provisions of section 153C which are as under:*

*(1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that, -*

*(a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or*

*(b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to,*

*a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned, shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if that Assessing Officer is satisfied that the books of account or documents or assets, seized or requisitioned, have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A."*

*From the plain reading of sub section 1 of section 153C, it becomes clear that assessment u/s 153C can be made if any valuable article of thing is seized or any books of accounts or documents seized or*

*information contained therein belongs to / pertains to / relates to any other person than the person referred to in section 153A. In the case under consideration neither the constructed house was seized by the department nor any books of accounts or document showing the unexplained investment of Rs. 74,22,385/- by the appellant was seized by the department. Therefore, the contention for the appellant that provisions of section 153C only are applicable to the appellant is not acceptable. The assessment of the appellant has been reopened in the light of the observation of the ITAT Hyderabad referred above and the DVO's report. Section 150(1) also provides that the notice u/s 148 can be issued for the purpose of making reassessment in consequence of or to give effect to any finding or directions contained in any order passed by any authority in any proceedings under this Act by way of appeal, reference or revision or by a Court in any proceedings under any other law. The AO has issued notice u/s 148 for the purpose of making reassessment in consequence of and to give effect to the order of the ITAT Hyderabad in the case of Shri Pradeep Kumar, the son of the appellant. Hence, the reopening of assessment of the appellant for the A.Y. 2008-09 u/s 147 is held to be valid and in accordance with the provisions of law"*

5. In order to appreciate the contentions so raised by both the parties, it would be relevant to refer to the reasons recorded by the AO before issuance of notice u/s 148 which reads as under:-

*"The assessee has filed his return of income for the assessment year 2008-09 on 09.05.2008 declaring total income at Rs.2,79,530/-.*

*As per information available in this office, it is noticed that a search and seizure operation was conducted at the residence of Sh. Pradeep Kumar Agarwal, 22-5-163 Pattargati, Hyderabad, Consequent to this, notice u/s 153A was issued calling for returns of income for the A.Y.2003-04 to 2008-09 and assessment was completed accordingly. For the A.Y. 2008-09, an addition of Rs.74,22,385/- was made on protective basis under the head "Unexplained investment in construction of building" in the assessment order u/s 143(3) r.w.s. 153A dated 30.12.2010.*

*Aggrieved by the addition in the assessment order, Sh. Pradeep Kumar Agarwal preferred appeal before the Ld. CIT(A). The Ld. CIT(A) decided that the unexplained investment was to be considered in the hands of the appellant only.*

*Aggrieved by the appellate order of the Ld. CIT(A), Sh. Pradeep Kumar Agarwal filed second appeal before the Hon'ble ITAT. The ITAT observed that the land on which the building was constructed was in the name of Sh. Sushila Devi Agarwal, mother of Sh. Pradeep Kumar Agarwal and she was the right person to be assessed in respect of unexplained investment in the construction, but not Sh. Pradeep Kumar Agarwal.*

*On perusal of the assessee's return of income, it has been noticed that he had shown income of Rs.2,79,530/- only which is not commensurate with such a huge investment of Rs.74,22,385/- made in the construction of building.*

*In view of the above, I have reason to believe that income of Rs,74,22,385/- on account of unexplained investment in construction of building for assessment year 2008-09 has escaped assessment within the meaning of section 147 of the Income-tax Act, 1961. Notice u/s 148 is issued accordingly."*

6. Thereafter, during the course of appellate proceeding, the remand report was called for by the Ld. CIT(A) wherein the AO has submitted as under:-

*"Ground No.1- the present reassessment is triggered on account of search operation carried on at 21-3-75, Chelapura, Hyderabad which premises although owned by the assessee but is controlled and occupied by her son Shri Pradeep Kumar Agarwal. In case of search carried on after 31<sup>st</sup> may of 2013 the specific assessment procedure is contained in section 153A, 153B, 153C and 153D:- in this connection it is stated that the information was received from DCIT central Circle-1(3), Hyderabad dated 17.11.2014 and on the information, the assessment proceedings u/s 147 was initiated and no objection was filed by the assessee during the assessment proceedings hence there is no right to claim that notice u/s 147 issued is wrong."*

7. We therefore find that the information which is in possession of the AO before the issuance of notice u/s 148 is the information which was received from DCIT Central Circle 1(3), Hyderabad vide his letter dated 17.11.2014. What is contained in the said letter dated 17.11.2014 is apparently what has been stated in the reasons which have been recorded by the AO before issuance of notice under section 148. It talks about search and seizure action conducted at the residence of Shri Pradeep Kumar Agarwal and thereafter,

issuance of notice u/s 153A calling for return of income and thereafter, addition of Rs 74,22,385 on protective basis under the head "unexplained investment in construction of building" while passing the assessment order u/s 143(3) read with section 153A of the Act. The information so furnished by DCIT Central Circle 1(3), Hyderabad also contains information regarding the appellate proceedings before the Id CIT(A) as well as the Tribunal and the outcome of such proceedings. As regards the outcome of the Tribunal's proceedings, what has been stated is the observation of the Tribunal to the effect that "the land on which the building was constructed was in the name of Sh. Sushila Devi Agarwal, mother of Sh. Pardeep Kumar Agarwal and she was the right person to be assessed in respect of unexplained investment in the construction, but not Sh. Pradeep Kumar Agarwal." This is the sum and substance of the communication which has been received by the AO from his counterpart in Hyderabad, the AO of the searched person. There is nothing on record and no finding recorded by either of the two AOs, which has been brought to our notice, which shows any incriminating material, any books of accounts, documents, etc which were found and seized from the possession of the searched person and which belongs/pertains to the assessee and which has been handed over to the AO of the assessee. Further, there is no satisfaction which has been recorded by the AO of the searched person that any books of accounts, documents, etc which were seized from the possession of the searched person and which belongs/pertains to the assessee. In such a situation, merely because the information is emanating from the assessing officer of the searched person, unless the AO got any incriminating documents which are found and seized during the course of search and seizure operation which belongs/pertains to the assessee, we do not find any justifiable basis for holding that provisions of section 153C are

attracted in the instance case and the AO has erred in invoking the provisions of section 147 of the Act.

8. Now, coming to the decision of the Coordinate Bench in case of Navrattan Kothari (supra) which has been heavily relied upon by the Id AR, in that case, the AO got the alleged incriminating material in the shape of diary and transactions recorded therein found and seized in the search and seizure operation in case of Rajendra Jain Group. Accordingly, the AO proceeded to reassess the income of the assessee u/s 147 of the Act. The entire decision of the AO to reassess the income of the assessee was based on the seized material and statement of Shri Madan Mohan Gupta recorded u/s 132(4) of the Act. In that context, it was held by the Coordinate Bench that for such cases, specific remedy is provided u/s 153C of the Act and provisions of section 147 cannot be invoked. The said decision is thus distinguishable. Similarly, other decisions relied upon by the Id AR have been rendered in peculiar facts and circumstances of the case and are distinguishable and doesn't support the contention of the assessee.

9. Given that the AO was in receipt of certain credible and tangible information arising out of assessment and appellate proceedings in case of her son, Shri Pradeep Kumar Agarwal that there is huge investment in construction of building in her name and the AO on examining the return filed by the assessee rightly formed a prima facie belief that income to the extent of unexplained investment in the building has escaped assessment, notice u/s 148 was rightfully issued to the assessee after seeking necessary approval from the Add. CIT, Range 5, Jaipur. Further, we do not agree that Add.CIT has granted the approval in a mechanical manner. He was ceased of the material information which has been brought to his notice by the AO and thereafter,

he has granted his approval. Once there is linkage between the material and formation of belief by the AO that the income has escaped assessment and the Id Add. CIT takes note of the same and grants his approval, we donot see any perversity in grant of such an approval. In our view, such an approval has been granted after due appreciation of facts on record and due application of mind. In the result, ground no.1 of the assessee's appeal is dismissed.

10. Ground no. 2 is regarding completing the assessment ex-parte u/s 144 of the Act. We find that inspite of repeated opportunities, the assessee has not appeared or represented her case before the AO, in such circumstances, the AO has rightly completed the assessment u/s 144 of the Act. In the result, ground no. 2 of the assessee's appeal is dismissed.

11. Ground no. 3 is regarding addition made u/s 69 of the Act. It was submitted by the Id AR that the assessee has no source of income which may earn her unaccounted income and her son is involved in pearl business and has visited various countries which shows that it is the son who has invested in the construction of the building. Further, it was submitted that section 69 places a heavy burden on the AO and in support, decision of the Hon'ble Supreme Court in case of P K Noorjahan 237 ITR 570 was cited at the Bar. It was further submitted that Hyderabad Bench of the Tribunal in case of assessee's son has only expressed probability for addition in the hands of the assessee. It was further submitted that valuation report of the DVO was not made available to the assessee and it was brought to the notice of Id CIT(A) and he has not dealt with this fundamental aspect while confirming the addition made by the AO.

12. In this regard, we refer to the findings of the Id CIT(A) which are reproduced as under:

*"I have gone through the assessment order, statement of facts, grounds of appeal and written submission carefully. It is seen that the amount of unexplained investment in the construction of house owned by the appellant has been worked out by the AO on the basis of DVO's report. The appellant has not been able to show that there was any major defect in the DVO's report on which the AO has relied upon. As far as the appellant's contention that the addition, if any, should be made in the hands of Shri Pradeep Kumar is concerned, the ITAT Hyderabad has already given the finding that the addition in respect of unexplained investment in the construction of house owned by the appellant has to be made only in the hands of the appellant and not in the hands of Shri Pradeep Kumar. Therefore, this contention of the appellant is also rejected. In view of the facts discussed above, the addition of Rs. 74,22,385/- made by the AO u/s 69 is hereby confirmed."*

13. We have heard the rival contentions and perused the material available on record. It is not in dispute that the house belongs to the assessee and there is a construction which has been carried out which has been determined during the course of search and reassessment proceedings in case of assessee's son. It is also not in dispute that the assessee has shown cost of land at Rs 11,00,000 and cost of construction at Rs 15,66,615 in her return of income. As the value shown in her return of income was very low, the matter was referred to valuation cell and value was determined at Rs 89,89,000 based on the DVO report. The unexplained investment of Rs 74,22,385 (Rs 89,89,000 less Rs 15,66,615) was thus determined based on the DVO report. The addition on account of unexplained investment in construction of the

house is therefore rightly brought to tax in the hands of the assessee. The onus is clearly on the assessee to provide suitable explanation regarding such undisclosed investment and the burden cannot be shifted on the Revenue by stating that the house property was situated at Hyderabad and in complete control of her son. Interestingly, the assessee's son Shri Pradeep kumar Agarwal, in the course of his reassessment proceedings, has stated that land belonged to his mother and construction was carried out of the funds of his mother and he has only supervised such construction activity. The Coordinate Bench taking note of the said fact besides other factors, has deleted the addition made in the hands of the assessee's son. Where the additions have been deleted in the hands of assessee's son, there cannot be a situation that the assessee will also be discharged from the tax liability when the fact of the matter remains that there is investment in the house property which belongs to the assessee and which remains unexplained and undisclosed at the time of filing of her return of income.

14. At the same time, regarding the quantum of additions made, we find that the assessee didn't attend to the assessment proceedings which were completed u/s 144 of the Act. However, during the appellate proceedings, when the assessee has submitted before the Id CIT(A) that a copy of the DVO report may be made available to her to allow her an opportunity to go through the same, we find that the assessee deserves such an opportunity and which has apparently not been provided to the assessee. We accordingly set aside the matter to the file of the Id CIT(A) for the limited purposes of allowing her access to the DVO report and to file her explanations/submissions and the Id CIT(A) after taking the said explanation/submissions shall decide the matter afresh. In the result, ground no. 3 of assessee's appeal is allowed for statistical purposes.

In the result, the assessee's appeal is partly allowed for statistical purposes.

Order pronounced in the open Court on 27/02/2018.

Sd/-

(श्री विजय पाल राव)  
(VIJAY PAL RAO)

न्यायिक सदस्य / Judicial Member

Sd/-

(विक्रम सिंह यादव )  
(VIKRAM SINGH YADAV)

लेखा सदस्य / Accountant Member

Jaipur

Dated:- 27/02/2018.

Pooja/

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant-Smt. Sushila Devi Agarwal, Jaipur.
2. The Respondent – ITO, Ward-5(5), Jaipur.
3. The CIT.
4. The CIT (4),
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 328/JP/2017)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar