

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCHE, INDORE**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.174/Ind/2014
Assessment Year:2008-09**

Smt. Asha Parwani Bhopal (Appellant)	बनाम/ Vs.	Income tax Officer 3(1), Indore (Respondent)
P.A. No.AGTPP8970F		

Appellant by Shri Gagan Tiwari
Respondent by Shri Rajiv Jain

Date of hearing	03.05.2018
Date of pronouncement	04.05.2018

आदेश / O R D E R

PER MANISH BORAD, A.M

This appeal filed by the assessee pertaining to A.Y. 2008-09 is directed against the order of Ld. Commissioner of Income Tax(Appeals)-II, Bhopal (in short 'CIT(A)'), vide appeal No. CIT(A)-II/BPL/IT-297/2010-11 order dated 17.12.2013 which is arising out of the order u/s 143(3) of the Income Tax Act 1961(hereinafter called as the 'Act') framed on 28.12.2010 by ITO 3(1), Bhopal.

2. Briefly stated, the facts, as culled out from record, are that the assessee is an Individual engaged in trading business. Income of Rs. 1,93,150/- declared in the return of income filed on 23.7.2008. Case selected for scrutiny through CASS. Necessary notices u/s 143(2) and 142(1) of the Act duly served upon the assessee. The learned Assessing Officer on the basis of ITS information came to the conclusion that the assessee has not disclosed interest income of Rs.3,96,850/- and also could not explain the source of cash deposit of Rs.3,50,900/- in the savings bank account held with Vijaya Bank. The learned Assessing Officer accordingly made additions for the aforesaid two amounts relating to interest income and cash deposit as well as minor addition of Rs. 3244/- for the amount of TDS and assessed the income at Rs. 9,44,194/-.

3. The assessee's appeal before the learned Commissioner of Income Tax (Appeals) brought part relief to the assessee. Now the assessee is in appeal before the Tribunal raising the following grounds of appeal :-

- (i) *That on the facts and in the circumstances of the case, the order of the learned lower authorities are vitiated on several grounds, hence the same may kindly be quashed.*
- (ii) *That the various finding of the learned lower authorities are opposed to the facts and orders are bad in law hence the same may kindly be quashed.*
- (iii) *That on the facts and in the circumstances of the case, the learned lower authorities erred and was not justified and was not justified in not allowing proper opportunity of being heard.*
- (iv) *That on the facts and in the circumstances of the case, the learned lower authorities erred and was not justified in making additions of Rs.3,96,900/- on account of interest income.*
- (v) *That on the facts and in the circumstances of the case, the learned lower authorities erred and was not justified in making additions of Rs. 3,50,900/- as unexplained investment u/s 69 of the Income Tax Act.*
- (vi) *That the levy of interest u/s 234B and 234D at Rs. 67118/- and 2875/- respectively is excess, unlawful and unjustified.”*

4. At the outset, the learned counsel for the assessee requested for not pressing ground nos. 1 and 2. He further requested that the assessee was not afforded proper opportunity of being heard as the assessee had necessary evidence and documents which are sufficient enough to prove that the Assessing Officer grossly erred in making the additions of Rs. 3,96,900/- for undisclosed interest of Rs.3,50,900/- for unexplained cash. The learned counsel for the assessee referred to the paper book requested for providing one more opportunity of being heard before the Assessing Officer. The learned DR raised no objection to the same.

5. We have heard the rival contentions and have gone through the material placed on record before us. Since the learned counsel for the assessee did not press ground nos. 1 & 2 raised in this appeal, we dismiss the same as not pressed. Apropos ground nos. 3,4 & 5 the learned counsel for the assessee made a request for setting aside the same to the file of the Assessing Officer to examine the same in the light of the documents placed in the paper book. The revenue has raised no objection to the same. We, therefore, in the interest of justice and fair play, set aside the issues of addition

relating to undisclosed interest of Rs.3,96,900/- and unexplained investment in cash deposit of Rs.3,50,900/- to the file of the Assessing Officer with the direction to decide the same de novo after providing reasonable opportunity of being heard to the assessee.

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

Order was pronounced in the open court on 4th May, 2018.

Sd/-

(KUL BHARAT)
JUDICIALMEMBER

Sd/-

(MANISH BORAD)

ACCOUNTANTMEMBER

May 4th 2018

Dn/-

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order

Private Secretary/DDO, Indore