

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Sh. N. S. Saini, Accountant Member

ITA No. 6451/Del/2018 : Asstt. Year : 2010-11

Kashi Ram, RRA Taxindia, D-28, South Extension, Part-I, New Delhi-110049	Vs	Income Tax Officer, Ward-1(4), Faridabad
(APPELLANT)		(RESPONDENT)
PAN No. CTCPR4822E		

**Assessee by : Sh. Rakesh Gupta, Adv. &
Sh. Dipesh Garg, Adv.
Revenue by : Sh. S. L. Anuragi, Sr. DR**

Date of Hearing: 09.04.2019

Date of Pronouncement: 16.04.2019

ORDER

This is an appeal filed by the assessee against the order of CIT(A), Faridabad dated 29.08.2018.

2. The assessee has raised following grounds of appeal:

"1) That having regard to the fact and circumstances of the case, Ld. CIT (A) has erred in law and on facts in confirming the action of Ld. AO in framing the impugned reassessment order as the assessment order was passed without complying with the mandatory conditions of section 147 to 151 of the Income Tax Act, 1961 and without recording valid reasons as per law and without obtaining valid approval as per law and in any case reopening of the assessment and framing of the reassessment order was contrary to law.

2) That in any view of the matter and in any case, action of Ld. CIT(A) in confirming the action of Ld. AO in reopening of the impugned assessment u/s 143(3)/147 is bad in law and against the facts and circumstances of the case.

3) That in any view of the matter and in any case, action of Ld.CIT(A) in confirming the action of Ld. AO in passing the impugned assessment order u/s 143(3) / 147 even though notice u/s 148 was not served.

4) That in any view of the matter and in any case, action of Ld. CIT(A) in confirming the action of Ld. AO in passing the assessment order u/s 143(3)/147 even though notice u/s 143(2) was issued in violation of the judicial decision Hon'ble Delhi High Court in the case of Director of Income Tax vs. Society For Worldwide Interbank Financial Telecommunications 323 ITR 249 (Delhi).

5) That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of the Ld. A.O. in making an addition of Rs.23,00,000/- as income from undisclosed sources on account of deposits into the bank account, more so without appreciating the material on record & without observing principles of natural justice.

6) That in any case and in any view of the matter, action of Ld.CIT(A) in confirming the addition of Rs.23,00,000/- is bad in law and against the facts and circumstances of case and without considering the material placed on record and by recording incorrect facts and findings.

7) That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. A.O. in passing the impugned order without giving adequate opportunity of being heard.

8) That the appellant craves the leave to add, alter or amend the grounds of appeal at any stage and all the grounds are without prejudice to each other."

3. In ground nos. 1 to 3 of the appeal, the assessee has challenged the reopening of assessment made u/s 147 of the Act on the ground that it is without recording valid reasons and without obtaining valid approval.

4. I have heard the rival submissions and perused the orders of the lower authorities and material available on record. In the instant case, notice u/s 148 of the Act was issued to the assessee by the Assessing Officer by recording the following reasons:

"Reason for initiation of proceedings under section 147 of the Income Tax Act, 1961:

As per AIR/CIB information available with this office, the assessee has deposited cash amounting to Rs.52,00,000/- in her saving bank account during the financial year 2009-10 relevant to assessment year 2010-11. On AST system, no ITR has been shown for assessment year 2010-11.

Keeping in view of the above facts, I have reason to believe that income of the assessee to the tune of Rs.52,00,000/- and other income which subsequently comes to notice has escaped assessment for the assessment year 2010-11 by reason of the failure on the part of the assessee to disclose fully and truly all material facts necessary for computing correct income and filling his return of income for that assessment year. Accordingly, notice u/s 148 of Income Tax Act, 1961 is being issued."

5. Further, the approval of the competent authority who granted the approval by noting as "approved".

6. The contention of Authorized Representative of the assessee is that a perusal of the recorded reasons shows that the reopening of the assessment was made by the Assessing Officer on the ground that he received AIR/CIB information that assessee deposited cash of Rs.52,00,000/- in her savings bank account during the financial year relevant to assessment year 2010-11. He argued that the Delhi Bench of the Tribunal in the case of Bir Bahadur Singh Sijwali Vs ITO reported in (2015) 43 CCH 490 (Del. Trib.) has held that mere fact of deposit made in bank account itself does not lead to income being taxed in the

hands of the assessee and therefore, the Tribunal quashed the reassessment order.

7. He further submitted that the Hon'ble Delhi High Court in the case of Pr. CIT Vs N. C. Cables Ltd. reported in (2017) 98 CCH 10 (Del. HC) has held the mere appending of the expression "approved" says nothing, Commissioner of Income Tax has to record elaborate reasons for agreeing with the noting put up, and at the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. Hence, he prayed that the reassessment notice was bad in law on the above two counts and therefore, consequential reassessment order passed u/s 147 of the Act was unsustainable and requires to be quashed.

8. The Departmental Representative supported the order of the Commissioner of Income Tax (Appeals).

9. After considering the rival submissions and perusing the orders of the lower authorities and materials available on record. I find that the approval was granted by the Pr. CIT, Faridabad by noting "approved" shows that the approval was given in a mechanical manner without recording proper satisfaction after due application of mind. The Hon'ble Delhi High Court in the case of Pr. CIT Vs N. C. Cables Ltd. (supra) has held that mere appending of the expression "approved" says nothing. It is not as if the CIT has to record elaborate reasons for agreeing with the noting put up. At the same time, satisfaction has to be recorded of the given case which can be reflected in the briefest possible manner. In the present case, the exercise appears to have been ritualistic and formal rather than meaningful, which is the rationale for the safeguard of an approval by a higher ranking officer. For these reasons, the Court is satisfied that the findings by the ITAT cannot be distributed.

10. Respectfully following the above decision, I quash the impugned reassessment order and allow the grounds of appeal of the assessee.

11. In view of our above finding, the other grounds taken by the assessee in this appeal have become merely academic in nature and hence are not adjudicated.

12. In the result, the appeal of the assessee is allowed.

(Order Pronounced in the Open Court on 16/04/2019).

Sd/-
(N. S. Saini)
Accountant Member

Dated: 16/04/2019

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR