

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

Before Sh. T. S. Kapoor, Accountant Member

ITA No. 8008/Del/2018 : Asstt. Year : 2010-11

Gurneet Kaur, B-218A, Fateh Nagar, Tilak Nagar, New Delhi-110016	Vs	Income Tax Officer, Ward-45(5), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. AZSPK2892F		

Assessee by : Sh. R. R. Sinha, CA

Revenue by : Sh. S. L. Anuragi, Sr. DR

Date of Hearing: 30.05.2019	Date of Pronouncement: 31.05.2019
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ORDER

This is an appeal filed by assessee against the order of Commissioner of Income Tax (Appeals)-15, Delhi dated 30.07.2018.

2. The assessee has taken various grounds of appeal. However, the crux of grounds of appeal is the action of Id. Commissioner of Income Tax (Appeals) by which he has confirmed an addition which the Assessing Officer had made on account of deposits in bank account.

3. At the outset, the Id. Authorized Representative invited our attention to the fact that before Assessing Officer the assessee could not represent due to the reason that appellant's AR misguided the assessee and kept telling that to assessee she is appearing before Assessing Officer but in fact she did not appear and therefore, the assessment was completed u/s 144 of the Act. It was submitted that this issue was taken before Id. CIT(A) who appreciated the facts of the case and examined the deposits made by assessee. The Id. AR

submitted that before Id. CIT(A) cash flow statement was filed and it was submitted therein that deposits in bank were made out of withdrawals made by assessee on earlier occasions. However, the Id. CIT(A) did not accept the contentions as the fact of earlier withdrawals in the form of cash were not apparent from the Bank Statement. The Id. AR, therefore, now filed a certificate of RBS bank wherein the bank has certified that the cheques used by assessee and examined by the Id. CIT(A) were utilized for the purpose of cash withdrawals only. The Id. AR submitted that the only objection of the Id. CIT(A) was that on the Bank statement it was not clear as to whether the cheques were used for cash withdrawals or for otherwise. Therefore, it was prayed that matter may be set aside to Assessing Officer so that he could verify the same and decide accordingly.

4. The Id. Departmental Representative, on the other hand, stated that earlier the assessee had stated that the deposits were made out of compensation received from his husband on account of divorce with him and now the assessee has changed her stand and is claiming that the deposits were made out of earlier withdrawals.

5. I have heard the rival parties and have gone through the material placed on record. I find that the only objection for not accepting the earlier withdrawals by Id. CIT(A) is the fact that in the Bank statement the cheques which the assessee had claimed for having used for cash withdrawals did not specify as to whether the same were actual cash withdrawals or not. Now the assessee has filed a bank certificate certifying therein that those cheques against which assessee had claimed to have made cash withdrawals were actual cash withdrawals. Since the Assessing Officer had passed order u/s 144 of the Act, therefore, I deem it appropriate to remit the issue back to Assessing

Officer who on the basis of bank certificate should pass a fresh order after considering the certification by bank. Needless to say that assessee will be provided sufficient opportunity of being heard.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

(Order pronounced in the Court on 31st day of May, 2019 at New Delhi)

Sd/-
(T. S. Kapoor)
Accountant Member

Dated: 31/05/2019

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR