

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.946/Del./2019
Assessment Year 2009-2010

Smt. Shivani Agarwal, 42, Janpath, New Delhi. PAN AEFOA7698B	vs.,	The Income Tax Officer, Ward-52(1), Room No.1603, E-Block, Pratyakshkar Bhawan, Civic Centre, J.L. Nehru Marg, New Delhi-110002
(Appellant)		(Respondent)

For Assessee :	Shri J.P. Chawla, C.A.
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	19.08.2019
Date of Pronouncement :	02.09.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-18, New Delhi, Dated 11.01.2019, for the A.Y. 2009-2010, challenging the reopening of the assessment under section 148 of the I.T. Act, 1961 and addition of Rs.7,29,000/- under section 68 of the I.T. Act, 1961.

2. Briefly the facts of the case are that in this case information available on record was that the assessee has invested sum of Rs.7,29,000/- against purchase of scrips of one paper company M/s Blueprint Securities Ltd. On the basis of this information assessment was reopened under section 148 of the I.T. Act. The A.O. considering the material on record, was of the opinion that assessee has entered into colourable devise for avoidance of tax and the receipt of Rs.7,29,000/- by way of cheque is nothing but unexplained cash credit under section 68 of the I.T. Act. The Ld. CIT(A) confirmed the reopening of the assessment as well as dismissed the appeal on merits.

3. Learned Counsel for the Assessee at the outset submitted that the case of sister of the assessee has been considered by ITAT, Delhi SMC-Bench in the case of Raakhi Agarwal, New Delhi vs. ITO, Ward-52(1), New Delhi, in ITA.No.1170/Del./2018 for the A.Y. 2009-2010 and vide Order Dated 10.06.2019 the reopening of the assessment have been confirmed and this ground was dismissed. However, as regards merit is concerned, the matter have

been restored to the file of A.O. for re-doing the assessment in accordance with Law. Copy of the Order Dated 10.06.2019 is placed on record and provided to the Ld. D.R. Learned Counsel for the Assessee, therefore, submitted that issue of reopening of the assessment will be decided against the assessee as per the above order. However, the issue on merit may be restored to the file of A.O. as is done in the connected case of Raakhi Agarwal (supra).

4. The Ld. D.R. also suggested that since identical facts have been considered in the case of sister of the assessee Raakhi Agarwal (supra), therefore, issue on merit may be remanded to the file of A.O. for reconsideration.

5. In view of the above facts, it is clear that the case of the assessee and her sister Raakhi Agarwal (supra) have been considered by the authorities below on the same issue in respect of purchase of shares of M/s Blueprint Securities Ltd. In the case of Raakhi Agarwal (supra) sister of the assessee, the Tribunal has confirmed the reopening of the assessment and this ground was dismissed. Learned

Counsel for the Assessee suggested that this ground of appeal of assessee may be dismissed.

6. Following the reasons for decision on identical facts in the case of Raakhi Agarwal (supra), I dismiss the issue of reopening of the assessment in the matter. However, the Tribunal in the same Order Dated 10.06.2019 restored the issue on merit to the file of A.O. for reconsideration. Following the Order of the Tribunal Dated 10.06.2019, I set aside the Orders of the authorities below and restore the issue on merit to the file of A.O. with a direction to re-decide the same as per Law as is directed in the case of Raakhi Agarwal (supra). The A.O. shall give reasonable, sufficient opportunity of being heard to the assessee.

7. In the result, appeal of Assessee allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 2nd September, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "SMC" Bench
6.	Guard File

//By Order//

Asst. Registrar : ITAT : Delhi Benches :
Delhi.

Date of dictation	19.08.2019
Date on which the typed draft order is placed before the dictation Member	20.08.2019
Date on which the approval draft comes to the Sr. PS	02.09.2019
Date on which the fair order is placed before the Dictation member for pronouncement	02.09.2019
Date on which the fair order comes back to the Sr. P.S.	02.09.2019
Date on which the final order is uploaded on the website of ITAT	02.09.2019
Date on which the file goes to the Bench Clerk	03.09.2019
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order.	