

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI O.P. MEENA, ACCOUNTANT MEMBER**

I.T.A. No.2400/DEL/2017
Assessment Year: 2011-12

Smt. Sukhmani Bedi, C/o R.S. Ahuja & Co., C-353 Defence Colony, New Delhi.	vs.	DCIT, Central Circle-11, New Delhi.
TAN/PAN: AHPB3816D		
(Appellant)		(Respondent)

Appellant by:	Shri R.S. Ahuja, CA		
Respondent by:	Shri S.N. Bhatia, CIT-D.R.		
Date of hearing:	04	11	2019
Date of pronouncement:	04	11	2019

ORDER

PER AMIT SHUKLA, JM:

The aforesaid appeal has been filed by the assessee against the impugned order dated 23.02.2017, passed by Ld. CIT (A)-24, New Delhi for the quantum of assessment passed u/s.144 for the Assessment Year 2011-12. The assessee is only aggrieved by enhancement of income of the assessee of Rs.9,74,199/- made by the Ld. CIT(A) on alleged income earned in USA.

2. The facts in brief are that the assessee had earned salary income while employed in USA for sum of USD 86.041 in the calendar year 2010, i.e., period from 01.01.2010 to 31.12.2010. The assessee had offered pro-rata income for the

period of nine months in the return of income filed in India for the period 01.04.2010 to 31.12.2010 which worked out to USD 64,473 and was shown in the return of income for the Assessment Year 2011-12 filed on 11.08.2011. In the return of income, the assessee had sought credit of taxes and relief u/s.90/91 of Rs.5,02,508/-. Ld. CIT(A) though has deleted the said addition on the ground that assessee has paid federal income tax in USA on salary income which is deductible from the tax paid by the assessee on her worldwide income/salary income.

3. However, Ld. CIT (A) observed that assessee has not reflected the income earned by her in USA for the period 01.01.2011 to 30.03.2011 for which he asked to produce various documents as the said sum was not reflected in the income tax return. In response, the assessee had stated that she did not work in USA beyond 31.03.2011 and has not filed any return of income in USA for that period and that is why in the return of income for Assessment Year 2012-13 no income from outside India was reported. However, Ld. CIT (A) held that on a pro-rata basis for first quarter sum of Rs.9,74,199/- should be added on pro-rata basis for the period between 01.01.2011 to 31.03.2011.

4. Before us, ld. counsel submitted that the approach of the Ld. CIT (A) is wholly erroneous because it was clearly submitted before the Ld. CIT (A) that assessee had only worked in USA and has received salary only for the period

01.04.2010 to 31.12.2010 and after that period neither she has worked in USA nor she has received any salary income. He also submitted US individual income tax return for the year 2010 of the assessee which shows that she had received salary of USD 86,041 for the calendar year 2010 which starts from 01.04.2010 to 31.12.2010. The assessee had duly showed such a salary income in a return of income in India fall within the relevant Financial Year, i.e., from 01.04.2010 to 31.12.2010. Since the assessee had not received any salary after 01.01.2011, therefore, there is no reason as to why the Ld. CIT (A) should presume that the assessee must have earned income from 01.01.2011 to 30.03.2011 and make a pro-rata enhancement of the income. Such an enhancement of income is completely based on conjecture *de hors* any material and same cannot be sustained. Accordingly, such an enhancement made by the Ld. CIT (A) is directed to be deleted.

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

Order pronounced in the open Court on 4th November, 2019.

Sd/-

[O.P. MEENA]

[ACCOUNTANT MEMBER]

DATED: November, 2019

PKK:

Sd/-

[AMIT SHUKLA]

JUDICIAL MEMBER