

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D": NEW DELHI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA No. 3784 to 3790/Del/2016
(Assessment Year: 2005-06 to 2011-12)

Reena Tewari, 6, Southern Avenue, Maharani Bagh, New Delhi PAN: AEC3594G	Vs.	DCIT, Central Circle-13, New Delhi
(Appellant)		(Respondent)

ITA No. 3782 & 3783/Del/2016
(Assessment Year: 2010-11 & 2011-12)

Aradhana Tewari, 6, Southern Avenue, Maharani Bagh, New Delhi-110065 PAN: ADCPT9875B	Vs.	DCIT, Central circle-13, New Delhi
(Appellant)		(Respondent)

Assessee by :	Shri Rajendra Handa, CA
Revenue by:	Shri J. K. Mishra, CIT DR
Date of Hearing	15/01/2020
Date of pronouncement	06/05/2020

O R D E R

PER BENCH

1. These are the seven appeals filed by Ms. Reena Tewari for Assessment Years 2005-06 to 2011-12 involving similar issues, and in the two appeals of Mrs Aradahan Tiwari for AY 2010-11 and 2011-12 also similar issues are involved therefore, they are disposed off by this common order.
2. We state the facts in case of Reena Tiwari first. The facts for Assessment Year 2005-06, which is the first appeal, are culled out there from. Search and seizure operation u/s 132 of the Act was conducted on M/s. Century Communication Group (M/s. Mahuaa Media Group) on 11.03.2011. The case of the assessee is also covered u/s 132 of the Act. The notice u/s 153A of the Act was issued on 03.01.2012. The assessee did not file the return of income in response to that notice. However, the assessee applied for copy of the order u/s 127 of the Act as well as copies of the seized material. Same

were provided. Therefore, in absence of return, notice u/s 142(1) was issued on 18.05.2012 decaling Nil income. Several notices were issued to the assessee however, no reply were received. Therefore, the ld AO passed an order u/s 144 read with section 153A of the Act on 18.03.2013 at the total income of Rs. 252761/-. The amount of addition was based on the bank account of the assessee with HDFC Bank. The details were called for however, there was no reply. Therefore, the ld AO made an addition of Rs. 252761/- on account of deposit in that bank account treating it as unexplained deposits of the assessee.

3. The assessee preferred appeal before the ld CIT (A), who passed an order on 28.03.2016 dismissing the appeal of the assessee. The ld CIT (A) held that ld AO was fully justified in making the addition in absence of the details. The ld CIT (A) also narrated the fact that several opportunities were given to the assessee but same were not complied with.
4. The assessee aggrieved with that order has preferred this appeal before us. The ground of appeal were reiterated by the ld AR before us and explained the reasons for non appearance. The assessee filed the concise ground of appeal also on 15.01.2020. The main challenge of the assessee is that in view of the peculiar facts and circumstances of the case adequate opportunity was not available before the lower authorities.
5. The ld DR submitted that enough opportunities were given to the assessee and hence the additions are confirmed.
6. We have carefully considered the rival contentions and the peculiar facts of the case. The assessee has submitted that Mr. Anand Tewari, brother in law of the appellant, who was looking after the affairs of the assessee, has been suffering from chronic liver disease for the last four to five years. Due to this, he was admitted in various hospitals in India as well as abroad on many occasions and was bed ridden for most of the time during these years. The assessee also offered to produce the voluminous medical record of the Mr. Anand Tewari. In view of this the assessee who was solely dependent on Mr. Anand Tewari for her affairs could not submit the details before the lower authorities. Mr. P. K Tewari who was father in law of the appellant was also ill during this period. Further , the companies in which the assessee is a director also defaulted of several obligations which resulted

into the complaints before the CBI. The CBI also started investigating the facts from the directors and staff members of those companies. Due to this Shri P.K Tewari, father in law of the assessee was jailed from July 12 to October 2012 and September 14 to March 15. Due to this the assessee could not obtain the basic record to submit before the lower authorities. Even the Id AR also did not submit the proper detail which resulted into passing of that order. Due to this, ex parte orders were passed by the lower authorities. Even otherwise, it was submitted that the orders passed by the lower authorities were without adequate information obtained from the bank etc. In view of the above extraordinary circumstance, which was not denied by the revenue, assessee failed to comply with the notices before the lower authorities. On careful consideration of the above facts, it is apparent that the extraordinary circumstances prevented the assessee from submitting the information before the lower authorities. Thus, though adequate opportunities were provided, they are fruitless, in view of inability of the assessee to submit the details before the revenue authorities. Therefore, in the interest of justice, we once again provide another opportunity to the assessee to submit the complete details before the lower authorities. Accordingly, the appeal for Assessment Year 2005-06 is set aside with a direction to assessee to comply with the notices and furnish necessary information. The Id AO may consider the same and after giving opportunity of hearing decide the issue afresh on the merits of the case.

7. Accordingly, appeal for Assessment Year 2005-06 is allowed with above direction for statistical purposes.
8. Identical fact exists for Assessment Years 2006-07 to 2011-12. For the similar reasons we also set aside these appeals back to the file of the Id AO with similar direction to the assessee.
9. In the result appeals of the assessee for Assessment Years, 2005-06 to 2011-12 are allowed for statistical purposes.

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10. The facts of case of Smt Aradhana Tewari for Assessment Year 2010-11 and 2011-12 are also identical. In view of our findings in case of Ms Reena

Tewari and direction there under, for similar directions, we also set aside these appeals back to the file of the ld AO to decide the issue afresh.

11. In the result appeals in case of Ms. Aradhana Tewari are also allowed for statistical purposes.

12. Accordingly, all these nine appeals are disposed off.

Order pronounced in the open court on 06/05/2020

-Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated: 06/05/2020
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi