

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC-1' BENCH,
NEW DELHI [THROUGH VIDEO CONFERENCE]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 9061/DEL/2019
[Assessment Year: 2011-12]

Neelam Rani Nagpal
C/o Pranshu Goel, CA
5A/3A, Ansari Road
Daryaganj, New Delhi

Vs. The Income tax Officer
Ward 36 (5)
New Delhi

PAN: AABNP 9641 D

[Appellant]

[Respondent]

Date of Hearing : 02.06.2020
Date of Pronouncement : 03.06.2020

Assessee by : Shri Pranshu Goel, Adv

Revenue by : Shri R.K. Gupta, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the
CIT(A)-12, New Delhi dated 30.09.2019 pertaining to assessment year
2011-12.

2. The sum and substance of the grounds of the assessee is that the ld. CIT(A) erred in confirming the addition made by the Assessing Officer amounting to Rs. 40.10 lakhs.

3. Briefly stated, the facts of the case are that Return of Income was selected for scrutiny assessment as per AIR information in relation to deposit of cash amounting to Rs. 40.10 lakhs in the HDFC Bank A/c. Statutory notices were issued and served upon the assessee. The assessee was asked to explain the source of cash deposit in the HDFC Bank A/c.

4. In her reply, the assessee stated that after the demise of her husband and while searching for some documents, the assessee found the cash stashed in the almirah. The assessee immediately deposited the cash in the bank account and utilised the same for repayment of loan taken from Syndicate bank to avoid recovery proceedings filed by the bank. It was further explained that her husband was withdrawing cash from the bank and the same was kept in the house which was not in her knowledge and when the cash was found, the same was immediately deposited and utilised for repayment of bank loan.

5. This explanation of the assessee did not find any favour with the Assessing Officer who treated the cash deposit as undisclosed income of the assessee and made addition of Rs. 40.10 lakhs.

6. The assessee carried the matter before the Id. CIT(A) and reiterated what has been stated before the Assessing Officer.

7. The Id. CIT(A) dismissed the contention of the assessee by holding that the source, as explained by the assessee, has not been corroborated by any concrete evidence.

8. Before us, the Id. counsel for the assessee drew our attention to the details of cash withdrawals and deposits in the Syndicate bank account. The Id. counsel for the assessee further drew our attention to the bank statement of Syndicate bank which are exhibited at pages 12 to 26 of the paper book.

9. It is the say of the Id. counsel for the assessee that sufficient cash was available with the assessee for making the impugned deposit. The Id. counsel for the assessee further stated that even the withdrawals were in excess of deposits made. Therefore, there is no

reason why the addition was sustained by the ld. CIT(A). The ld. counsel for the assessee emphasised that all these evidences were before the lower authorities but none of them were examined for the availability of cash with the assessee.

10. Per contra, the ld. DR strongly supported the findings of the Assessing Officer. It is the say of the ld. DR that the evidences referred to by the ld. counsel for the assessee appear to have not been examined by the Assessing Officer.

11. We have given thoughtful consideration to the orders of the authorities below qua the issues vis a vis the documentary evidences brought to our notice. It is true that neither the Assessing Officer nor the first appellate authority has made any comment on the sufficient cash withdrawals made by the husband of the assessee from Syndicate Bank Account. It is equally true that there is nothing on record to suggest that these withdrawals were utilised by the assessee or her husband (during his life time) for some other purposes.

12. In our considered opinion, these documentary evidences need to be examined. We, accordingly, restore these issues to the file of the Assessing Officer. The Assessing Officer is directed to examine the cash withdrawals statement vis a-vis the bank statement and if the withdrawals are found to cover the deposits, the Assessing Officer may accept the source of deposit. Needless to mention that reasonable opportunity should be given to the assessee for verification of these documents.

13. In the result, the appeal of the assessee in ITA No. 9061/DEL/2019 is treated as allowed for statistical purposes.

The order is pronounced in the open court on 03.06.2020.

Sd/-

Sd/-

**[SUCHITRA KAMBLE]
JUDICIAL MEMBER**

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 03rd June, 2020.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar
ITAT, New Delhi

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Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
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