

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC-2" NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

Through Video Conferencing

I.T.A. No.7441/DEL/2019
Assessment Year 2011-12

Tejinder Kaur, F-12, 2 nd Floor, Mukhram Garden Tilak Nagar, New Delhi.	v.	ITO, Ward-45(1), New Delhi.
TAN/PAN: AQGPK1317A (Appellant)		(Respondent)

Appellant by:	Shri Lalit Mohan, CA		
Respondent by:	Shri R. K. Gupta, Sr.D.R.		
Date of hearing:	27	10	2020
Date of pronouncement:	29	10	2020

ORDER

PER AMIT SHUKLA, J.M.:

The aforesaid appeal has been filed by the assessee against the impugned order dated 14.06.2019, passed by Ld. Commissioner of Income Tax (Appeals)-XV, New Delhi for the quantum of assessment passed u/s.144/147 for the Assessment Year 2011-12. In the grounds of appeal, the assessee has challenged the validity of reopening u/s.147 and also addition aggregating to Rs. 10,56,670/- on account of cash deposits made in the bank account.

2. The facts in brief are that the Assessing Officer noted that in this case, no return of income was filed for the year

under consideration and as per the CBDT's Pilot Project (non filers of Income Tax Return), certain transactions have been captured by Individual Transaction Statement (ITS) wherein it was noticed that assessee during the financial year 2010-11 had deposited sum of Rs. 26,13,240/- in cash. The reasons have been incorporated in the assessment order at pages 1 to 3, wherein the entire basis for recording the reasons and entertaining reason to believe is based on the information generated through ITD system that amount of Rs.26,13,240/- is income of the assessee. The ld. Assessing Officer has observed in his assessment order that despite issuance of various notices to the assessee, the assessee has not responded. Accordingly, he passed the assessment u/144/147 and has made addition for sums aggregating to Rs. 10,56,670/- which is mainly on account of gross profit @ 25% on total credit appearing in the bank account of Rs.26,90,040/- and cash deposits of Rs. 3,84,164/-.

3. Before the ld. CIT (A), the assessee has filed various additional evidences and also pointed out that the AIR information itself was based on wrong presumption of fact as it did not pertain to assessee. However, the Ld. CIT (A) has refused to admit the additional evidence under Rule 46A and has confirmed the said addition.

4. Before us, the ld. counsel for the assessee pointed out that from a bare perusal of the ITS which is basis for drawing adverse inference against the assessee and taking action u/s

147, it can be seen that it does not pertain to the assessee, because information pertains to Amarpreet Kaur with different address and completely unrelated to the assessee. Therefore, entire premise on which reasons were recorded is based on incorrect assumption of facts, therefore, such reason to believe and reason recorded is bad in law and does give him jurisdiction.

5. On the other hand, ld. DR submitted that though different name has been mentioned in ITS, but fact of the matter is that certain cash was deposited in the account of the assessee and assessee had not filed her return of income, and therefore, Assessing Officer has rightly assumed the jurisdiction.

6. After considering the material placed on record specifically the AIR information based on Individual Transaction Statement which is basis for recording the reasons and assuming jurisdiction u/s.147, it is seen that this information pertains to Amarpreet Kaur, resident of WZ-254GA, G-Block Hari Nagar, New Delhi who has maintained her account in SBI Tilak Nagar. Whereas, the name of the assessee is, Smt. Tajinder Kaur, F-12, 2nd Floor, Mukhram Garden, New Delhi, which is also mentioned in the assessment order and notices. In support, assessee has also filed form 26AS. For sake of proper appreciation, the typed version of ITS which was the basis for assuming jurisdiction u/s 147 is as under:-

AIR TXN CODE		001 (Deposited cash of Rs. 10,00,000 or More In A Saving Bank A/C)						
Filer TAN MUMS48590D		Filer Name; STATE BANK OF INDIA			Filer Address: 3 STATE BANK BHAVAN MADAM CAMA ROAD, NARIMAN POINT, MUMBAI MAHARASHTRA			
Sr. No.	Name and Address	Transaction Amount	Transaction Date	Joint Count	Actual Air Line No.	RRR Number	RRR Date	Filer Name and Branch address
1	AMANPREET KAUR ACCT. No. 30984785712 WZ-254A G BLOCK HARI NAGAR NEW DELHI	26,13,240	31-MAR-11	1	137105	50250500001413	18-SEP-11	STATE BANK OF INDIA, TILAK NAGAR (NEW DELHI) (01551) 5-B/4, MAIN NAJAFGARH ROAD, TILAK NAGAR NEW DELHI WEST DELHI 110018

7. From the aforesaid information it can be clearly seen that it is in respect of deposit of Rs.10 lac in Smt. Amarpreet Kaur and such FIR information does not mention or pertain to the assessee. Thus, the reasons recorded are based on factually incorrect information which admittedly does not belong to the assessee. The action of the Assessing Officer for reopening the case u/s 147 is mechanical and without any application of mind, and therefore, the entire reasons recorded on such erroneous presumption of information or material cannot clothe Assessing Officer with jurisdiction u/s.147 and same is therefore bad in law and is quashed.

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

Order pronounced in the open Court on 29th October, 2020.

Sd/-

Sd/-

**[PRASHANT MAHARISHI]
ACCOUNTANT MEMBER**

**[AMIT SHUKLA]
JUDICIAL MEMBER**

DATED: 29th October, 2020

PKK: