

आयकर अपीलीय अधिकरण, इन्दौर न्यायपीठ, इन्दौर

**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.847/Ind/2017
Assessment Year:2010-11**

Smt. Jyoti Asai E-101/10, Shivaji Nagar Bhopal (Appellant)	<u>बनाम/</u> Vs.	ACIT 3(1) Bhopal (Revenue)
P.A. No.AFHPA4045D		
Appellant by	S/Shri Ashish Goyal & N.D. Patwa, ARs	
Revenue by	Shri Harshit Bari, Sr. DR	
Date of Hearing:	04.01.2021	
Date of Pronouncement:	12.01.2021	

आदेश / O R D E R

PER KUL BHARAT, J.M:

This appeal by the assessee is directed against the order of Id. Commissioner of Income Tax (Appeals)(in short 'Ld. CIT(A)-2, Bhopal dated 10.03.2015 pertaining to assessment year 2010-11. The assessee has raised following grounds of appeal:

1.That on the facts and circumstances of the case, the ld

CIT(A) erred in confirming the addition of Rs. 6,75,500/- being opening cash balance and professional income shown in the cash flow of assessee, in hands of her husband Shri Deepak Asai, and deleted the protective addition made in the hands of the assessee without considering the explanation offered by the assessee and without considering the fact that the said cash balance and professional income is out of explained sources of assessee and already disclosed in return filed U/S 153A. Thus, the order passed by the ld CIT(A) is unjust, unfair and bad in law.

2. That on the facts and circumstances of the case, the ld CIT(A) erred in confirming the addition of Rs. 14,74,005/- (made as per Para 9 of assessment order) being Investment in ICICI Prudential Insurance Policy, in hands of her husband Shri Deepak Asai, and deleted the protective addition made in the hands of the assessee without considering the explanation offered by the assessee and without considering the fact that the said Investment is out of explained sources of assessee and already disclosed in return filed U/S ~ -3A. Thus, the order passed by the ld CIT(A) is unjust, unfair and bad in law.

3. That on the facts and circumstances of the case, the ld CIT(A) erred in confirming the addition of Rs. 4,55,500/- (as per Para No. 88 of the assessment order) for payments made against at Akriti Greens, Bhopal in hands of her husband Shri Deepak Asai, and deleted the protective addition made in the hands of the assessee without considering the explanation offered by the assessee and without considering the fact that the said Investment is out of explained sources of assessee and already disclosed in return filed u/s 153A. Thus, the order passed by the ld CIT(A) is unjust, unfair and bad in law.

4. That on the facts and circumstances of the case, the ld CIT(A) erred in confirming the addition of Rs. 2,00,000 - (as per Para No. 8A of the assessment order) for payments made against renovation of house at E-8, Comfort Garden, in hands of her husband Shri Deepak Asai. and deleted

the protective addition made in the hands of the assessee without considering he explanation offered by the assessee and without considering the fact that the aid Investment is out of explained sources of assessee and already disclosed in return filed u, 1-3A. Thus, the order passed by the ld CIT(A) is unjust, unfair and bad in law.

5.That on the facts and circumstances of the case, the ld CIT(A) erred in confirming the addition of Rs. 1,000/- (made as per Para 10F of assessment order) being cash made by assessee in her S.B Alc. no.63051699883 with State Bank of Indore, Kola Road,

Bhopal, in hands of her husband Shri Deepak Asai, and deleted the protective addition made in the hands of the assessee without considering the explanation offered by the assessee and without considering the fact that the said cash deposit is duly reflected in the Cash flow statement of assessee and already offered in return filed. Thus, the order passed by the ld CIT A is unjust, unfair and bad in law

6.That on the fact and circumstances of the case, the ld CIT(A) erred in confirming the addition of Rs. 10,000/- made as per Para 10E of assessment order) being cash deposits made by assessee in her B A/c. no. 53020703267 with State Bank of Indore, Shahpura, Bhopal. in hands of her husband Shri Deepak Asai, and deleted the protective addition made in the hands of the assessee without considering he explanation offered by the assessee an without considering the fact that the said cash deposit is duly reflected in the Cash flow - statement of assessee and already offered in return filed. Thus, the order passed by the 1d. CIT(A) is unjust, unfair and bad in law.

7.That on the facts and circumstances of the case, the ld CIT(A) erred in confirming the addition of Rs. 12,74,264/- (made as per Para 10A of assessment order) being credits by assessee in A no. 028301508839 with ICICI Bank, Bhopal, in hands of her husband Shri Deepak Asai. and deleted the protective addition made in the hands of the

assessee without considering the explanation offered by the assessee and without considering the fact that the cash deposit is duly reflected in the Cash flow statement of assessee and already offered in return filed. Thus, the order passed by the ld CIT(A) is unjust, unfair and bad in law.

8. That on the facts and circumstances of the case, the ld CIT(A) erred in confirming the addition of Rs. 3.36,960/- (made as per Para 11 of assessment order) being cost of Beijing tour undertaken by assessee, her husband and children, in hands of her husband Shri Deepak Asai. and deleted the protective addition made in the hands of the assessee without considering the explanation offered by the assessee and without considering the fact that the said expenditure is duly reflected in the Cash flow statement of assessee and already offered in return filed. Thus, the order passed by the ld CIT(A) is unjust, unfair and bad in law.

The appellant prays to add, amend or modify any of the grounds of appeal.

2. The appeal is delayed by 986 days. To this effect, the Ld. counsel for the assessee has filed an application stating that this case relates to search in case of Deepak Asai and Jyoti Asai and out of 7 years, 6 years were decided in case of Jyoti Asai vide order 30.07.2018. In those cases also there was a delay of 920 days that which was condoned by this very Bench vide order dated 30.07.2018(supra). On the other hand, Ld. DR could not controvert the submission made by the Ld. counsel for the assessee.

Since the reasons for delay are same, therefore, following our earlier order dated 30.07.2018, the delay is condoned.

3. At the outset of hearing, Ld. counsel for the assessee submitted that all the grounds raised in the present appeal are covered by the earlier order dated 30.07.2018(supra). On the other hand, Ld. Sr. DR also submitted that the grounds are covered by the earlier order dated 30.07.2018(supra).

4. Having gone through the material, order dated 30.07.2018(supra) and rival submissions, we find that all the grounds raised in the present appeal are covered by the earlier order dated 30.07.2018(supra). We find that the identical grounds also raised in the present appeal were decided by us as under:

Ground No.	Relevant page of order dated 30.07.2018(supra).
1	Pg. 253 para 331-334
2	Pg. 264 para 347 -353
3	Pg. 264 para 345-346
4	Pg 261 para 340-344
5	Pg 276 para 378-381
6	Pg. 275 para 374-377
7	Pg. 267 para 355-357
8	Pg. 287 para 403-407

5. We find that earlier vide order dated 30.07.2018, the appeals i.s. IT(SS) No.322 to 327/Ind/2017 for the previous assessment years 2004-05 to 2009-10 were allowed for statistical purposes. The relevant/operative portion of the order is reproduced for ready reference:

“We have considered the facts, rival submission and perused the material available on record. In the case of husband of the assessee in foregoing paragraphs of this order, we have decided the issue in different assessment years and have also observed that in respect of the earning of professional income, commission and investment in various items, we have given liberty to the assessing officer to examine and consider in the hands of the appellant assessee on substantive basis. We, therefore, hereby set aside the impugned order and restore the issue to the file of AO to frame assessment in the light of our observations/finding made in the case of Shri Deekak Asai.

6. In view of the above, since we have already dealt with the identical issues as above, we hereby set aside the impugned order for the present year also and restore the issues to the file of the AO to frame assessment in the light of our observations/findings made vide order dated 30.07.2018 (supra).

7. In result, appeal filed by the assessee is allowed for statistical purposes only.

Order was pronounced in the open court on 12.01.2021.

Sd/-
(MANISH BORAD)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Indore; दिनांक Dated : 12/01/2021

Patel/PS

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order

Assistant Registrar, Indore