

**INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "SMC": NEW DELHI]**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA. No. 8501/Del/2019
(Assessment Year: 2010-11)

Smt. Helen Chauhan, A-72, DDA MIG Flats, Saket, New Delhi - 110 017. PAN: AFGPC1776E	Vs.	ITO, Ward : 31 (1) New Delhi
(Appellant)		(Respondent)

Assessee by :	Shri Ankur Jain, C. A.;
Revenue by:	Shri R. K. Gupta, Sr. D. R.;
Date of Hearing :	10/08/2021
Date of pronouncement :	10/08/2021

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal has been filed by the assessee against the order passed by the ld. Commissioner of Income Tax (Appeals)-11, New Delhi, dated 10.09.2018, for assessment year 2010-11 wherein the appeal filed by the assessee against the order passed by the Income Tax Officer, Ward 31(1) New Delhi, dated 30.11.2017 is dismissed.

2. The assessee has raised the following grounds of appeal:-

“ 1. The Ld. CIT (A) grossly erred both on facts and in law in confirming the order of Ld. AO in making an addition of Rs. 49,15,850/- to the income of appellant.

2. The Ld. CIT (A) grossly erred both on facts and in law in confirming the order of Ld. AO in making an addition of Rs. 47,00,000/- by treating the investments as unexplained investments u/s 69B.

3. The Ld. CIT(A) grossly erred both on facts and in law in confirming the order of Ld.AO in making an addition of Rs. 25,854/- u/s 69A of the Act.

4. The Ld. CIT (A) grossly erred both on facts and in law in confirming the order of Ld. AO in applying the provisions of Sec. 69A when the same perse does not apply to the facts of the case of appellant.

5. The Ld. CIT (A) grossly erred both on facts and in law in confirming the order of Ld. AO in not making appropriate enquires to determine the source of investments but mechanically invoked the provisions of the Act.

6. The Ld. CIT (A) grossly erred both on facts and in law in confirming the order of Ld. AO in deeming income of Rs.1,90,000/- without any basis or under any provision of the Act. “

3. The brief facts of the case show that assessee is an Individual. According to the ITS details available it was found that the assessee has invested Rs.47,00,000/- in mutual fund in Franklin Templeton, UTI Mutual Fund, Reliance Mutual Fund, HDFC Mutual Fund,, Fidelity Mutual Fund, and Birla Sun Life Mutual Fund. The assessee has not filed any return of income and, therefore, the case of the assessee was re-opened under Section 147 of the Income Tax Act, 1961 (the Act) and assessee has not filed any original return of income as well as return in response to notice under Section 147 of the Act. Notice under Section 148 of the Act was issued on 29th March, 2017. None appeared before the Assessing Officer. Therefore, learned AO made an addition of Rs.47,00,000/- on account of investment in mutual funds. He further noted that as per AIR information assessee has further income of Rs.25,854/- from Reliance Mutual Fund, same was also added under Section 69A of the Act. The ld. Assessing Officer assumed that there is a minimum income of Rs.1,90,000/- of the assessee and thereby total taxable income of Rs. 49,15,854/- was determined by order passed under Section 144 read with Section 147 of the Act.
4. Assessee preferred an appeal before the ld. CIT (Appeals). The ld. CIT (Appeals) noted that assessee is non co-operative and, therefore, no interference is called for in the order of the Assessing Officer. In para 4 the assessee has sought several adjournments, which were granted by the ld. CIT (Appeals) and when on the last date i.e. 4.09.2018 there was no compliance, the ld. CIT (Appeals) noted that as the assessee has not furnished any information, the order of the AO is confirmed. Therefore, assessee is in appeal.
5. The ld. AR submitted that assessee is a senior citizen, un-married, through out her life worked abroad and retired as a Nurse from Saudi Arabia on 30.11.1994. She has stayed outside India for most part of her life and post retirement she came back. It was stated that the money she saved during her service and her retirement benefits were invested in India. The amount

of investment has been made through her savings bank account. He also submitted copy of the bank statement from 1995 to 2001 showing the amount of funds available with her and stated that there is no unaccounted income. He, therefore, submitted that the addition deserves to be deleted.

6. The Id. DR vehemently supported the order of the lower authorities.
7. We have carefully considered the rival contentions and perused the orders of the lower authorities. Before the Assessing Officer the assessee remained un-represented. Even before the Id. CIT (Appeals), she remained un-represented. The Id. Assessing Officer has made addition based on details of AIR transaction mentioned in Part E of Form No. 26AS. The assessee has shown before us the bank account of the assessee with Royal Bank of Scotland where the savings of the assessee are deposited. We find that the cheques for investment of the mutual fund are also issued from the same bank account. Thus, prima facie it seems that the money that is invested in the mutual fund is arising out of her past savings and retirement dues when she worked out of the country. However, the assessee could not properly explain the source of the above funds invested in mutual funds before the lower authorities and remained un-represented, the addition of Rs.47,00,000/- and Rs.25,854/- was added under Section 69B and 69A of the Act. Looking to the facts and circumstances of the case , and in the interest of justice, we set aside the whole issue back to the file of the Id. Assessing officer with direction to the assessee to submit the requisite details as required by the Id. Assessing Officer, along with the copies of the bank account from which respective investments have been made. The Assessing Officer may verify the same and decide the issue in accordance with law. Accordingly, the whole appeal is set aside to the file of the Assessing Officer
8. Appeal of the assessee is allowed, for statistical purposes.

Order pronounced in the open court on : 10/08/2021.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated : 10/08/2021.

MEHTA

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1. Appellant;
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	10.08.2021
Date on which the typed draft is placed before the dictating member	10.08.2021
Date on which the typed draft is placed before the other member	10.08.2021
Date on which the approved draft comes to the Sr. PS/ PS	10.08.2021
Date on which the fair order is placed before the dictating member for pronouncement	10.08.2021
Date on which the fair order comes back to the Sr. PS/ PS	10.08.2021
Date on which the final order is uploaded on the website of ITAT	10.08.2021
date on which the file goes to the Bench Clerk	10.08.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	