

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,
NEW DELHI (THROUGH VIDEO CONFERENCING]

BEFORE SHRI AAKASH DEEP JAIN, VICE PRESIDENT AND
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 1967/DEL/2020 [A.Y 2010-11]

Smt. Nirmala Devi
C-1/37, West Enclave
Pitampura, New Delhi

Vs.

The I.T.O
Ward -40(3)
New Delhi

PAN: AAKPD 7672 F

(Applicant)

(Respondent)

Assessee By : Shri Mukesh Kumar, CA
Ms. Arpita Agarwal, Adv

Department By : Ms. Alka Gautam Sr. DR

Date of Hearing : 09.12.2021

Date of Pronouncement : 09.12.2021

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - 14, New Delhi dated 14.01.2019 pertaining to A.Y 2010-11.

2. The sum and substance of the grievance of the assessee is that the ld. CIT(A) erred in confirming the addition made by the Assessing Officer without considering the facts in true perspective.

3. Briefly stated, the facts of the case are that on the basis of information of cash deposit of Rs. 36.23 lakhs in the SB A/c of the assessee, the Assessing Officer issued a notice under section 148 of the Act. In response to which, the assessee submitted that the original return of income filed should be taken as return filed in response to notice under section 148 of the Act.

4. During the course of scrutiny assessment proceedings, the Assessing Officer asked the assessee to explain the source of cash deposit in the SB A/c.

5. On receiving no plausible reply, the Assessing Officer made addition of Rs. 36.23 lakhs found to be deposited in the SB A/c.

6. Before the ld. CIT(A), the assessee strongly contended that the impugned SB A/c pertains to her son Shri Ashish Garg who is staying with her and the assessee is only a second account holder with the said bank account. Therefore, the source of bank deposit should be asked from her son.

7. The ld. CIT(A) was of the opinion that the assessee could not adduce conclusive evidence to justify her claim and confirmed the addition.

8. Before us, the ld. counsel for the assessee vehemently stated that the appellant is an aged lady and could not furnish necessary evidences, though the same are now available with her, by which it can be shown that the cash deposited in the impugned bank account belongs to the business of the son of the assessee and prayed for one more opportunity.

9. Per contra, the ld. DR strongly supported the findings of the Assessing Officer and stated that sufficient opportunities have been given to the assessee but no plausible reply was filed during the assessment proceedings nor before the ld. CIT(A).

10. We have carefully considered the orders of the authorities below. There is no dispute that the SB A/c was jointly held by the assessee and her son. Therefore, the claim that cash deposited was out of business of the assessee cannot be ruled out. Therefore, in the interest of justice and fair play, we restore this assessment to the file of the Assessing Officer. The assessee is directed to furnish necessary evidence to show that the cash found to be deposited in the impugned SB A/c was by her son and the Assessing Officer is directed to examine the evidences and decide the issue afresh after giving reasonable and sufficient opportunity of being heard to the assessee.

11. In the result, the appeal of the assessee in ITA No. 1967/DEL/2020 is allowed for statistical purposes.

The order is pronounced in the open court on 09.12.2021.

Sd/-

**[AAKASH DEEP JAIN]
VICE PRESIDENT**

Sd/-

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

Dated: 09th December, 2021

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
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	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
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	

