

2. The facts in the case of Saket Chakor Shah are that the assessee is an individual who filed his return declaring total income of Rs.1,73,077. The return consisted of income from conducting tuitions and also carrying out the work of accounts writing. Thereafter, the AO initiated re-assessment proceedings by issuing notice u/s 148 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') on the ground that the assessee deposited cash of Rs.1,41,01,500 along with two other persons in their joint savings bank accounts. In the course of investigation pursuant to search on a third person, the assessee was examined u/s 131 of the Act. He was unable to explain the source of cash deposited in the said joint accounts. Consequently, the assessee revised his original return and offered Rs.47,00,500 as 1/3rd share of cash deposited over and above the amount declared in the original return. The AO treated the revised return as invalid and issued notice u/s 148 of the Act. The assessee furnished the return in response to such notice declaring the same income as was offered in the revised return declared *non est* by the Revenue. The AO completed the assessment with the income of Rs.48.73 lakhs declared in the return in response to notice u/s 148 of the Act, but treating the additional income as the one u/s 68 of the Act attracting higher rate

of tax. The assessee challenged the assessment order before the Id. CIT(A) urging that re-assessment was invalid and also the treatment of cash deposits as unexplained income u/s 68 was not valid. The Id. CIT(A) dismissed the assessee's appeal.

3. I have heard the Id. DR through Virtual Court and gone through the relevant material on record. Here is a case in which the assessee earlier filed revised return, which was declared as *non est*. Thereafter, the assessee again filed a return pursuant to notice u/s 148 and *suo motu* offered additional income of Rs.47 lakhs. Once the income was offered in the return, the same could not have been treated as cash credit u/s 68 or unexplained investment u/s 69 of the Act. The position would have been different if the assessee had not offered additional income in his return and the AO had made the addition. That case would have justified roping in of sections 68 or 69 etc. Since the assessee admittedly offered the income in his return pursuant to notice u/s 148 of the Act, which has been accepted by the AO as such, in my considered opinion, the Id. CIT(A) was not justified in countenancing the action of AO in treating additional income as unexplained cash credit or unexplained investment attracting sections 68 or 69 of the Act and

consequently charging higher rate of taxation. I, therefore, set aside the impugned order and order to delete the addition.

4. Similar is the position regarding the other appeal filed by Jyoti Chakor Shah, who is another joint account holder of the same bank account in whose hands the income shown in response to notice u/s 148 at Rs.48,86,801 was accepted as such, but treated by the AO as income u/s 68 attracting higher rate of taxation. The assessee raised similar contentions before the Id. CIT(A) about initiation of re-assessment proceedings and also the taxability of amount u/s 68, but without any success. This assessee is also aggrieved in the same manner as the earlier one.

5. The Id. DR fairly admitted that the facts and circumstances of this appeal are *mutatis mutandis* similar to the above case. Following the view taken hereinabove, I set aside the impugned order and order to delete the addition.

6. In the result, both the appeals are allowed.

Order pronounced in the Open Court on 31st January, 2022.

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 31st January, 2022
GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A), Pune-12
4. The Pr. CIT, Central, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे /
DR 'SMC', ITAT, Pune
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,**// True Copy //**

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	31-01-2022	Sr.PS
2.	Draft placed before author	31-01-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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