

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC-2” BENCH: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 5975/DEL/2019

[Assessment Year: 2011-12]

Laxmi Devi, Flat No. H-1-1B, 1 st Floor, Model Town-III, Delhi-110009 PAN- APCPD9943C	<u>Vs</u>	Income Tax Officer, Ward-35(1), New Delhi.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Sh. Om Prakash, Sr. DR	
Date of hearing	10.01.2022	
Date of pronouncement	18.01.2022	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-12, New Delhi, dated 10.06.2019, pertaining to the assessment year 2011-12. The assessee has raised following grounds of appeal:

- “1 *That on facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) has erred in law in not providing reasonable opportunity of hearing and passing an ex parte order.*
- 2 *On facts and circumstances of the case, the learned Commissioner of Income Tax (Appeals) has erred in law in upholding the validity of*

proceedings u/s 147 read with section 148 of the Act as the notice issued u/s 148 has not been served upon the assessee.

- 3 *That both the initiation of proceedings and the assessment framed without satisfying the pre-conditions for invoking the provisions of section 148 of the Act is invalid and untenable.*
4. *on facts and circumstances of the case, the earned Commissioner of Income Tax (Appeals) has erred in law in upholding the addition of Rs. 10,44,321/- made u/s 68 of the Act, ignoring the fact that the assessee is not maintain any books of account.*
- 5 *on facts and circumstances of the case, the earned Commissioner of Income Tax (Appeals) has erred in law in upholding the addition of Rs. 10,44,321/- made u/s 68 of the Act, purely on the basis of information received from commodity exchange without having any material on record showing the investment of margin amount by the assessee.*
- 6 *That the appellant craves leave to add, alter or delete the above grounds of appeal at the time of hearing.”*

2. At the time of hearing no one appeared on behalf of the assessee. There is no representation on behalf of the assessee for the last many hearings. The notices issued to the assessee by speed post are returned back. Therefore, appeal was taken up for hearing in the absence of the assessee.

3. Facts, in brief, are that the case of the assessee was reopened for assessment u/s 147 of the Income-tax Act, 1961 (in short “the Act”). The basis of reopening, as stated by the Assessing Officer, was that the assessee had made transactions in Multi Commodities Exchange amounting to Rs. 9,56,87,130/-. It was noticed that

the assessee had not filed her return of income for the assessment year 2011-12.

Therefore, the assessment was reopened. The Assessing Officer issued notice u/s 148 of the Act, but the same was returned with the remark "left". The Assessing officer, therefore, proceeded to frame the assessment in the absence of the assessee and assessed the income at Rs. 10,44,321/- i.e. the sum margin money.

4. Against the order of Assessing Officer the assessee preferred appeal before the learned CIT(Appeals). Before the learned CIT(Appeals) also there was no representation on behalf of the assessee and the appeal was dismissed ex parte to the assessee.

5. The only effective ground the this appeal is against confirming the addition of Rs. 10,44,321/-.

6. Learned Sr. DR supported the orders of authorities below and submitted that the assessee has been thoroughly negligent in pursuing her case.

7. I have heard the learned Sr. DR and perused the material on record and gone through the orders of authorities below. It is seen from the record that the assessee has not been representing her case. Even there was no representation before the authorities below. The notices sent through speed post have been returned back with the remark "left". Considering the principles of natural justice, I am of the considered view that the assessee should be given an opportunity to explain the source of the expenditure made by her. Therefore, the impugned order is set aside

and the assessment is restored to the file of Assessing Officer to frame the assessment afresh after giving opportunity to the assessee of being heard.

8. Assessee's appeal is allowed for statistical purpose.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Madan Pal Verma

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

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