

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'F' : NEW DELHI)**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER  
and  
SHRI AMIT SHUKLA, JUDICIAL MEMBER**

**(THROUGH VIDEO CONFERENCE)**

**ITA No.2852/Del./2017  
(ASSESSMENT YEAR : 2007-08)**

Shri Ravinder Singh,  
255, Double Storey,  
New Rajinder Nagar,  
New Delhi – 110 060.

vs. DCIT, Central Circle 18,  
New Delhi.

**(PAN : AAHPB2693P)**

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri G.S. Grewal, CA  
REVENUE BY : Shri T. Kipgen, CIT DR

Date of Hearing : 03.03.2022  
Date of Order : 03.03.2022

**ORDER**

**PER AMIT SHUKLA, JM :**

The aforesaid appeal has been filed by the assessee against the impugned order dated 17.03.2017 passed by the ld. CIT(A)-29, New Delhi for the quantum of assessment passed under section 153 of the Income-tax Act, 1961 (for short 'the Act') for the assessment year 2007-08.

2. In the grounds of appeal, the assessee has challenged addition of Rs.5,00,000/- made on account of unexplained expenditure for study

of assessee's son added u/s 69A; and secondly, addition of Rs.1,80,000/- made on account of estimated rental income from property owned by the assessee.

3. The facts in brief are that the assessee is an individual and has filed his return of income for AY 2007-08 on 31.03.2008 as per the acknowledgement of return of income filed before us from pages 1 to 23 of the paper book. Thereafter, a search and seizure operation u/s 132 was carried out on 14.05.2010 at the residence of the assessee at 3/77, Old Rajinder Nagar, New Delhi wherein cash amounting to Rs.20,00,000/- was found. However, no addition has been made on the cash found during the course of search. Without referring to any incriminating document found during the course of search, AO has made ad hoc/ estimated addition on the following two amounts :-

**“5.1 As per the 132(4) statement of the assessee, his son was pursuing Engineering from London. The income declared by the assessee is very meager. With such a meager income the assessee could not met the education expenses of his son. Since the duration of the Engineering Course approximately 4 years, in the circumstances, I estimate the unexplained expenditure incurred by the assessee, for the education of his son at Rs.5,00,000/- and add to the total income of the assessee u/s 69A of the Income Tax Act, 1961.**

**5.2 Since the I property 512, East Patel Nagar, New Delhi was not used by the assessee for the purpose of his own residence, the income from the said house property u/s 23(1)(a) of the Income Tax Act, 1961 is determined at Rs.1,80,000/- computed @ Rs.15,000/- per month.”**

4. However, it is seen that during the course of assessment proceedings, assessee has not complied with various notices on which ld. counsel for the assessee before us stated that due to certain CBI

enquiry, all the material/documents were seized by the CBI, therefore, assessee was unable to provide any details.

5. Ld. CIT (A) has confirmed the addition made by the AO despite noting the fact that the assessee has already filed return of income prior to the date of search and the income from house property was already disclosed in the computation of income. On the issue of estimated expenditure of Rs.5,00,000/-, he has simply observed that, since assessee in his statement stated that his son is studying in London, therefore, such an estimate is justified.

6. After considering the relevant finding and material on record we find that, nowhere there is anything on record or anything found during the course of search any corroborative document or material that assessee had spent any amount outside the sources by way of any incriminating material. On the contrary, the assessee's contention has been that assessee's sister who is Permanent Resident of UK was taking care of his son who is studying there and bearing all day-to-day expenditure.

6. We have heard both the parties and gone through the material placed on record as well as the finding given in the impugned order. It is an admitted fact that at the time of search, the assessee had already filed return of income u/s 139 of AY 2007-08 and on 14.05.2010, and such assessment had attained finality and cannot be reckoned as abated assessment at the time of search i.e. 14.05.2010. It is now well settled proposition of law that in cases where assessments are unabated, then the additions can be made only on the basis of incriminating material for the purpose of assessment u/s 153A. Here, in this case, from the observation made by the AO as noted supra, it is

seen that the AO has estimated the expenditure for the education of his son of Rs.5,00,000/-, simply because in his statement assessee has said that his son is pursuing engineering from London. There is no reference of any seized or incriminating material indicating that any expenditure has been incurred by the assessee for the education of his son. Thus, such an estimated disallowance of unexplained expenditure cannot be sustained within the scope of section 153A sans any incriminating material establishing especially when the assessment had attained finality. Accordingly, the addition of Rs.5,00,000/- is deleted.

7. Insofar as the income from house property of Rs.1,80,000/- computed by the AO, we find that already assessee had disclosed income from house property in his return of income wherein assessee had shown rent receipt of Rs.4,00,000/- and has disclosed Rs.76,515/- from the same property which AO is trying to estimate on hypothetical basis by taking the rent @ Rs.15,000/- per month. This addition is again without any incriminating material found during the course of search. Thus, addition of Rs.1,80,000/- is deleted.

8. In the result, the appeal filed by the assessee is allowed.

**Order was pronounced on 3<sup>rd</sup> day of March, 2022.**

**Sd/-  
(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

**sd/-  
(AMIT SHUKLA)  
JUDICIAL MEMBER**

**Dated: 03.03.2022  
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-29, New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.