

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH, DEHRADUN**

Before Dr. B. R. R. Kumar, Accountant Member

Sh. Yogesh Kumar US, Judicial Member

ITA No. 25/DDN/2020 : Asstt. Year: 2012-13

Smt. Inderpreet Kaur Bedi, G-16A, Race Course, Dehradun-248001	Vs	Income Tax Officer, Ward-1(3), Dehradun
(APPELLANT)		(RESPONDENT)
PAN No. AIDPB2599L		

Assessee by : Sh. K. K. Juneja, CA

Revenue by : Smt. Poonam Sharma, Sr. DR

Date of Hearing: 27.04.2022

Date of Pronouncement: 29.04.2022

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A), Dehradun dated 23.07.2020.

2. A search & seizure operation u/s 132 of the Income Tax Act, 1961 was conducted by the AO in the business as well as residential premises of Shri Parvinder Kochar Group of cases. The assessee, an individual was enjoying income from consultancy and income from other sources. The assessee was filed return of on 28.03.2013 declaring total income of Rs.1,90,670/-.

3. The case of the assessee has been reopened u/s 147 of the Income Tax Act, 1961 based on the documents found and seized at the premises during the search of PS Kochar Group and notice u/s 148 has been issued on 07.01.2016. The reasons for notice mentions that the assessee has paid an amount of Rs.30.75 lacs as own money and Rs.30.74 lacs

"white" as per the registered documents against the purchase of shop at F-19 at Cross Road Mall, Dehradun. The order u/s 148 has been passed on 19.12.2016.

4. At the outset, objection regarding the reopening of the case has been taken up before us.

5. Heard the arguments of both the parties and perused the material on record.

6. We find that the reasons recorded are not correct as the record reveal that the assessee is not the sole owner of the shop F-19 at Cross Road Mall, Dehradun. The property deed stands in the name of the co-owner Ms. Swarleen Kaur Dua who has invested Rs.15,37,500/- in the property along with stamp duty of Rs.55,250/-. Hence, it can be conclusively said that the reasons recorded by the AO that the assessee is the owner of the property is factually incorrect so as the condition of the AO that the agreement to sale was executed by the assessee at an amount of Rs.30.74 lacs. are not correct to the extent of alleging payment of Rs.30.74 lacs as the document proves otherwise.

7. The notice was issued on 07.01.2016 and the assessee replied on 03.05.2016 and brought to the notice of the AO that Ms. Swarleen Kaur Dua is the co-owner of the property. In our view, as per the above factual position when it has been brought to the notice of the AO that the information on the basis of which the notice has been issued is not correct then the belief of the AO cease to exist. After receipt of the entire facts, the AO was supposed to record fresh reasons to belief that the income of the assessee has escaped assessment and proceed in accordance with the law. In the

instant case, in spite of the facts brought to the knowledge to the AO, the Assessing Officer has not brought on record the escapement of Ms. Swarnleen Kuar Dua and not recorded correct amount in the case of the assessee. Hence, the reasons recorded can be said to be faulty and the notice issued would be treated as invalid which results in the assessment being treated as nullity.

8. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 29/04/2022.

Sd/-

(Yogesh Kumar US)
Judicial Member

Dated: 29/04/2022

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR