

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'SMC' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No.477/Del/2020  
Assessment Year: 2011-12

Smt. Mamta Singh, H. No. D-48, Plot No.-18, 2 <sup>nd</sup> Floor, Gali No. 8A, Dashrathpuri, Dabri, Palam Road, New Delhi	<b>Vs.</b>	Income Tax Officer, Ward-50(5), New Delhi
<b>PAN : CWEPS9517A</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Rajeev Singh, CA
Respondent by	Sh. Om Prakash, Sr. DR

Date of hearing	02.06.2022
Date of pronouncement	07.07.2022

**ORDER**

This is an appeal by the assessee against order dated 29.11.2019 of learned Commissioner of Income Tax (Appeals)-42, New Delhi, for the assessment year 2011-12.

2. The grounds raised by the assessee are as under:

1. *Ld/CIT(A) did not consider; notice issued u/s 148 was time barred which is bad in law.*
2. *Ld/CIT(A) did not consider; the assessment order, demand notice u/s 143(3) r.w.s. 147 was unsigned and invalid.*
3. *Ld/CIT(A) did not consider our explanation and submission which is bad in law. Addition of unexplained case credit is bad in law.*

4. *Ld/CIT(A) has directed AO to initiate penalty proceeding u/s 269SS/T which is bad in law.*
5. *Ld/CIT(A) did not give hard copy of order u/s 250, which is bad in law.*

*The appellant craves leave to add amend or alter any of the grounds of appeals or submission during proceedings before the Hon,ble IT AT in case circumstances so arise.*

3. Briefly the facts are, the assessee is a resident individual and stated to be a house wife. As observed by the Assessing Officer, for the assessment year under dispute, the assessee did not file any return of income under section 139(1) of the Income-tax Act, 1961 (for short 'the Act'). Whereas, the Assessing Officer received information that the assessee had deposited amount of Rs.18 lakhs in an account held in Bank of India. Thus, based on such information, the Assessing Officer reopened the assessment under section 147 of the Act. In course of assessment proceeding, the Assessing Officer called upon the assessee to explain the source of deposit made in the bank account. In response to the query raised by the Assessing Officer, the assessee furnished her explanation and stated that the deposit in the bank account is only amount of Rs.3 lakhs and not 18 lakhs. Further, the assessee submitted that the amount of Rs.3 lakhs was deposited out of agricultural income and past savings. Though, the Assessing Officer, on inquiry with

the bank found that the actual deposit in the bank account is to the tune of Rs.3 lakhs, however, he observed that assessee's claim of agricultural income is not supported by any evidence. Therefore, he rejected assessee's claim of agricultural income. Besides the above, the Assessing Officer found that the assessee had further deposits in some other bank accounts aggregating to Rs. 8,97,200/-. Alleging that the assessee could not explain the source of such deposits, the Assessing Officer treated them as unexplained money under section 69A of the Act and added back to the income of the assessee. Addition so made, was also upheld by learned Commissioner (Appeals).

4. Before us, learned counsel for the assessee submitted, the assessment was reopened to assess the deposits of Rs.18 lakhs in the account held with Bank of India. He submitted, in course of assessment proceeding, the assessee had furnished documentary evidence to prove that the deposit is only to the extent of Rs. 3 lakhs. He submitted, after factual verification, since, the Assessing Officer found assessee's claim to be correct, he did not make any addition of the amount. He submitted, without making this addition for which the assessment was reopened, the Assessing Officer made other additions, which is unsustainable. In support

of such contention, learned counsel for assessee relied upon certain judicial precedents.

5. Learned Departmental Representative relied upon the observations of Assessing Officer and learned Commissioner (Appeals).

6. I have considered rival submissions in the light of the decision relied upon and perused the materials on record. It is evident, based on AIR information indicating that the assessee had made investment of Rs.18 lakhs in fixed deposits with Bank of India, the Assessing Officer reopened the assessment under section 147 of the Act. In course of assessment proceeding, the assessee furnished documentary evidence and submitted that the fixed deposit made is of Rs.3 lakhs and not 18 lakhs. On cross verification with the bank, the Assessing Officer having found assessee's claim to be correct did not make any addition of the fixed deposits. Whereas, he made addition of deposits made in some other bank accounts while completing the assessment. The issue arising for consideration is, whether without assessing the income for which the assessment was reopened under section 147 of the Act, can Assessing Officer make other addition. The answer to the aforesaid question certainly will be in the negative.

7. In case of CIT Vs. Jet Airways (I) Ltd., 331 ITR 236, the Hon'ble Bombay High Court, while dealing with an identical issue, has held that without assessing the income, for which the assessment was reopened, the Assessing Officer cannot assess any other item of income. The same view has been expressed in the following decisions as well:

1. *Commissioner of Income Tax Vs. Mohmed Juned Dadani, (2013) 355 ITR 172 (Guj.)*
2. *Ranbaxy Laboratories Ltd Vs CIT, 336 ITR 136 (Del. HC)*

8. Respectfully following the ratio laid down in the aforesaid decisions, I have no hesitation in holding that the addition made of Rs.6,49,177/- is unsustainable. Accordingly, I delete the addition. Ground is allowed.

9. In the result, the appeal is allowed, as indicated above.

***Order pronounced in the open court on 7<sup>th</sup> July, 2022***

***Sd/-***  
**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Dated: 7<sup>th</sup> July, 2022.

RK/-

Copy forwarded to:

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