

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.8097/Del/2019
Assessment Year: 2012-13

ITO Ward- 69 (5) New Delhi	Vs	Smt. Madhu Bhatia C-9/9213, Vasant Kunj, New Delhi-110070 PAN No.AFPPB4431A
(APPELLANT)		(RESPONDENT)

Appellant	None
Respondent	Sh. Jeetender Chand, Sr. Dr.

Date of hearing:	21/09/2022
Date of Pronouncement:	21/09/2022

ORDER

PER N.K. BILLAIYA, AM:

This appeal by the revenue is preferred against the order of the CIT(A)-21, New Delhi dated 04.07.2019 pertaining to A.Y.2012-13.

2. The grievance of the revenue read as under :-

The Income Tax Officer, Ward-69(5), New Delhi is hereby directed to file appeal for the A.Y.2012-13 in the above case before the Hon'ble ITAT, New Delhi, under specific exception clause (c) laid down in the circular no. 3/2018 dated 11.07.2018 on the following grounds of appeal:

- (i) "On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in deleting the interest charged u/s 234A of the I.T. Act vide order u/s 154 of the I.T. Act, 1961 despite the fact that assessee had filed its return of income late by 19 months."
- (ii) "On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in quashing the order u/s 154 of the I.T. act passed by AO when assessee had not made full and true disclosure of outstanding demand and had obtained certificate of DTDRS without paying interest u/s 234A of the I.T. Act when admittedly the return of income was filed late by 19 months."
- (iii) "The appellant craves leave to add, to alter or amend any ground of appeal raised above at the time of hearing."

3. None appeared on behalf of the assessee inspite of notice we decided to proceed exparte.

4. The DR was heard at length who strongly supported the findings of the AO.

5. The order of the first appellate authority carefully perused.

6. Briefly stated the facts of the case are that the assessee filed her return of income on 31.03.2014 which was processed u/s. 143 (1) of the Act subsequently the return was selected for scrutiny assessment under CASS and accordingly statutory notices were issued and served upon the assessee. The assessment was completed at a figure of Rs.11144581/-.

7. Subsequently the AO invoking the provisions of section 154 of the Act rectified the assessment order and levied interest of Rs.385591/- u/s. 234A of the Act.

8. Assessee strongly objected the order before the CIT(A) and strongly contended that as per the provisions of section 204 (3) of the Act the order passed under that section shall not be reopened in any other proceedings under the Act and it was claimed that the order framed u/s. 154 of the Act tentamounts to reopening or

proceedings by charging interest u/s. 234 A of the Act which was not charged earlier. It was brought to the notice of the CIT(A) that the order passed u/s. 154 is not in conformity with the provisions of DTDRS 2016. The assessee also placed strong reliance on the Circular No.2/2015 issued by the CBDT which was on the basis of the decision of the Hon'ble Supreme Court in the case of CIT Vs. Prannoy 309 ITR 231.

9. After considering the facts and the submissions and the relevant provisions of the Act / scheme the CIT(A) held as under :-

Considering the ratio of above decision

and circular issued by the CBDT, it can be inferred that the CBDT has accordingly reviewed the present practice of charging interest u/s 234A of the Act on self-assessment tax paid before the due date of filing the return of income. The CBDT has decided that no interest u/s 234A of the Act is chargeable on the amount of self-assessment tax paid by the assessee before the due date of filing the return of income. As far as facts of the present case is concerned and perusal of computation of income provided by the appellant, it is noticed that in the computation appellant did not consider the interest payable u/s 234A since all the taxes of Rs.55,383/- were paid by way of self assessment tax of Rs.55,500/- and a refund of Rs.117/- on the basis thereof was claimed in the computation.

Considering the above provisions of the DTDRS 2016, circular issued by the CBDT, mentioned supra the impugned order passed u/s 154 is quashed and consequently the Assessing Officer is directed to delete the demand of Rs. 3,85,591/- created on account of interest payable u/s 234A of the Act. Accordingly the grounds of appeal taken by the appellant are allowed.

10. On a careful consideration of the findings of the CIT(A) we do not find any error or infirmity to interfere with the findings of the CIT(A). The appeal of the revenue is dismissed.

11. Decision announced in the open court on 21.09.2022.

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

NEHA, Sr. Private Secretary

Date:- .09.2022

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
 ITAT NEW DELHI

Date of dictation	21.09.2022
Date on which the typed draft is placed before the dictating Member	22.09.2022
Date on which the typed draft is placed before the Other member	22.09.2022
Date on which the approved draft comes to the Sr.PS/PS	22.09.2022
Date on which the fair order is placed before the Dictating Member for Pronouncement	22.09.2022
Date on which the fair order comes back to the Sr. PS/ PS	22.09.2022
Date on which the final order is uploaded on the website of ITAT	23.09.2022
Date on which the file goes to the Bench Clerk	23.09.2022
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	