

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER**

**ITA No.1134/DEL/2020  
[Assessment Year: 2011-12]**

Smt. Tripta, H. No.46, Behind Sukhram Hospital, Palwal, Haryana-121102	Vs	Income Tax Officer, Ward-II(4) C.R. Building, Faridabad, Haryana-121001
<b>PAN-AGWPT3908G</b>		
Assessee		Revenue

Assessee by	None
Revenue by	Sh. Om Parkash, Sr. DR

<b>Date of Hearing</b>	<b>07.11.2022</b>
<b>Date of Pronouncement</b>	<b>15.11.2022</b>

**ORDER**

This appeal filed by the assessee is directed against the order of the CIT(A), Faridabad, dated 22.01.2020 pertaining to Assessment Year 2011-12

2. The grounds of appeal read as under:-

1. *The Assessing Officer has not taken into consideration the reciprocal withdrawals made by the assessee from his bank account*
2. *The AO has further erred by discarding the documents filed by the appellant to substantiate his case.*
3. *The AO has further erred by accepting the deposits made by the appellant in his passbook contrary to the law established as income.*
4. *That the assessee prays for the grant of permission to add, alter, delete or modify any or all of the ground of appeal at anytime on or before the hearing.*

3. Brief facts of the case are that the assessment u/s 143(3) r.w.s. 147 was framed in this case on 11.12.2018. Reopening was done on the basis

of information that the assessee has made cash deposits of Rs.10,99,000/- in the bank account. The Assessing Officer in this case was not satisfied with the explanation of the assessee about the source of cash deposit and has added the same as concealed income. The order of the Assessing Officer may be gainfully read as under:-

*“2. As no ITR was filed in response to notice u/s 148, a notice u/s 142(1) was issued to file the return alongwith certain queries on 26.06.2018 fixing the case for 03.07.2018. In response to the notice, the assessee has filed his return of income on 03.07.2018 for the A.Y. 2011-12 declaring income of Rs. 1,88,160/- in response to notice u/s 148 of the Income Tax Act, 1961. Statutory notice under section 143(2) was issued on 11.08.2018 fixing the case for 20.08.2018. In response to this, Shri Dhananjay Jha, CA and authorized representative of the assessee have filed reply which is placed on record.*

*3. During the course of assessment proceedings, the assessee has submitted that he was engaged in the business of man power supply services under the name and style of M/s Shree Om Swastik Enterprises and source of income was received from business during the F.Y. 2010-11. The assessee furnished copy of return, bank details, etc. Requisite details regarding source of cash deposit has been obtained & placed on record.*

*4. During the course of assessment proceedings the assessee was asked to furnish the source of cash deposit of Rs. 10,99,000/- made by him during the F.Y. 2010-11. In response to the said query, the assessee has submitted that he has deposited the cash from the business receipts. The assessee has also submitted a registration certificate from the labour department and a certificate issued by EPF authorities in response to proof of his business. Scanned copy of registration certificate issued by labour department and EPF*

*5. On perusal of the documents filed by the assessee, it is noticed that the assessee has submitted registration certificate issued by labour department relates to the F.Y. 2011-12 which was issued on 01.12.2011 and the EPF certificate issued by the authorities on 06.09.2012 relates to F.Y. 2012-13. This shows that the assessee has not doing such type of business during the F.Y. 2011-12.*

*5.1 Further on perusal of the return filed by the assessee for the A.Y. 2011-12 on 30.07.2011, it is noticed that the assessee*

*has shown his salary income of Rs. 1,68,000/- and has not shown any other income in any of the head. The assessee has filed return in response to notice u/s 148 in which the assessee has shown business income of Rs. 1,88,160/- in which she has shown gross receipts of Rs. 10,99,000/- and has shown profit of Rs.1,88,160/- i.e. 20.93% and has not shown any other income in any other head in her return. This shows that the assessee has shown her business receipts to cover up the cash deposit in her saving bank account. In view of above, it is observed that the assessee has not doing any business, she is getting salary during the F.Y. 2010-11 as evident from her earlier return filed on 30.07.2011 and has no connection with the man power business and cash deposit claimed by her.*

*5.2 The above facts were confronted to the assessee vide order sheet entry dated 13.11.2018 to the counsel of the assessee Shri Dhananjay Jha, CA and was show caused as to why the cash deposit of Rs. 10,99,000/- may not be added to the returned income of the assessee. In response to the said show caused, the counsel of the assessee has not given any satisfactory reply. He has submitted that the cash deposit was from her business receipt which is not true. Hence, the cash deposited by the assessee in her saving bank account amounting to Rs. 10,99,000/- remain unexplained and added to the returned income of the assessee. I am satisfied that the assessee has concealed income to the tune of Rs.10,99,000/- by furnishing inaccurate particular of his income and therefore, penalty proceedings u/s 271(l)(c) are hereby initiated separately.”*

4. Against the above order, the assessee preferred appeal before the Ld. CIT(A).

5. The Ld. CIT(A) confirmed the action of the Assessing Officer by observing as under:-

*“6. During the appellant proceedings, it was explained that she was engaged in business of garments from home (sale of garments of Rs.8,99,000/-). On going through the facts of the case, it is noted that the appellant has made contradictions in her submissions regarding explanation of cash deposits. In the return furnished u/s 139, she had declared her income from salary. Before the AO has been explained that she has earned business income from supply of manpower whereas, during the appellate proceedings, it has been explained that she was*

*undertaking business of selling of garments. In such circumstances, there is no credible information on the part of appellant to explain source of cash deposits in her bank account. On going through the bank statement, it is found that the appellant has made major cash deposits of Rs, 1,90,000/-, Rs.1,50,000/-, Rs. 1,35,000/-, Rs.50,000/-, Rs.50,000/- and Rs.30,000/- on six different dates in the month of June and July, 2010. Out of the same, amount of Rs.5 lakh has been transferred to one Sh. Mohinder on 13.07.2010. Thereafter, further cash 14.08.2010, 21.08.2010, 23.08.2010, 14.09.2010 and 16.09.2010 respectively with no withdrawals. Subsequently also, there are only cash deposits with minor cash withdrawals. It is not clear if the appellant was carrying out any business activity and how she was able to meet the expenses/payments in order to carry out such business activity. The pattern of bank transactions does not corroborate the explanation of the appellant that these transactions related to some business activities. Keeping in view the contradictory submission of the appellant and nature of the bank transactions, it is found that the appellant could not explain nature and source of cash deposits in her bank account. The onus was on the appellant to explain the same. Therefore, it is held that the AO was justified in treating such cash deposits as unexplained. The same is hereby confirmed u/s 69A of the Act.”*

6. Against this order, the assessee is in appeal before us.

7. I have heard the Ld. DR. None is appeared on behalf of the assessee despite several notices which have returned unserved, hence I proceed to adjudicate the issue by hearing the Ld. DR and perusing the records. I note that the issue here is explanation of the assessee regarding deposit of cash for a sum of Rs.10,99,000/- in her bank account. Firstly, the assessee took the plea that it was salary income. Thereafter, before Assessing Officer, she took the stand that it was her business income for supply of man power. Before Ld. CIT(A) she pleaded that it was business income from garment business. Revenue authorities have not found any

cogency in the shifting stand of the assessee. In this background, I do not find any infirmity in the order of the Ld. CIT(A). Hence, I uphold the same.

8. In the result, the appeal of the assessee stands dismissed.

Order pronounced in the open court on 15<sup>th</sup> November, 2022.

**Sd/-**  
**[SHAMIM YAHYA]**  
**ACCOUNTANT MEMBER**

**Delhi:** 15.11.2022.

*Shekhar,*

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi