

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

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 66/Asr/2021**  
Assessment Year: 2017-18

Sh. Himanshu Arora,  
Plot No. 27, Lakshmi  
Avenue, Near State Bank  
of India, Bhagtanwala,  
Amritsar

[PAN: ASEPA 9495P]  
**(Appellant)**

Vs. Income Tax Officer,  
Ward 2(1),  
Amritsar

**(Respondent)**

Appellant by : Sh. Vijay Aggarwal, C. A.  
Respondent by : Mrs. Kanchan Garg, Sr. DR

Date of Hearing: 17.11.2022  
Date of Pronouncement: 20.12.2022

**ORDER**

**Per Dr. M. L. Meena, AM:**

The present appeal has been filed by the assessee against the order dated 16.07.2021 passed by the Id. CIT(A), National Faceless Appeal Centre (NFAC), Delhi in respect of Assessment Year 2017-18.

2. The assessee has raised the following grounds of appeal:

- “1. That the Learned CIT(A), National Faceless Appeal Centre, Delhi has wrongly upheld the addition to the tune of Rs.311960/- without discussing any of the submissions made us on e-portal in a convincing manner.
2. That the Learned CIT(A) did not comment upon addition made on non CASS issue which was beyond the scope of limited scrutiny.
3. That the Learned CIT(A) has not at all discussed the third ground of appeal as to how provisions of section 115BBE were applicable in our case.
4. That the appellant craves to add, alter or modify any grounds of appeal.”

3. Apropos ground no. 2, the appellant has challenged the validity of the assessment on account of addition made and confirmed by the Ld. CIT(A) beyond the scope of limited scrutiny.

4. The assessee case was selected under limited scrutiny for verification of cash deposit in its bank account. The Assessing Officer (in short “the AO”) has not doubted the source of cash so deposited but he has estimated the service charges received by the assessee from various customers for getting various jobs pertaining to the transport department by expanding the scope of limited scrutiny without seeking mandatory approval of the Pr.CIT during the course of assessment proceeding.

5. The Ld. CIT(A) has confirmed the addition without appreciating the facts of the case and deliberating on the expanding the limited scrutiny

assessment without taking any approval of the Pr. CIT for verification of source of cash deposit in bank account to service charges on transport by observing as under:

*“In view of the above, it is seen that the Assessing Officer has estimated the service charges at Rs. 250/- for each job done. Further it is also seen from the calculation given by the Assessing Officer that 1206 no. of jobs were for below Rs.100/-; 498 no. of jobs were for payment of Rs 101 to Rs 500 ; 1544 no. of jobs for were for payment made between Rs. 501 to Rs.1000. It is highly improbable that for such small payments, service charges of Rs.250/- would be charged by the assessee. Thus, there has been an overestimation by the Assessing Officer while calculating the income earned from service charges. Thus, out of the addition of Rs.7,11,960/-, a further relief of Rs.4 lakhs is being given to the assessee and the concealed income is calculated at Rs.3,11,960/-.*  
**Hence, appeal to the extent of Rs. 4,00,000/- is allowed. Hence, appeal is partly allowed.”**

6. The Ld. Counsel for the assessee submitted that The assessee case was selected under limited scrutiny on account of cash deposit in its bank account. The Assessing Officer (in short (“the AO”) has not doubted the source of cash so deposited. He argued that the addition made on account of service charge issue was beyond the scope of limited scrutiny as the appellant assessee case was selected for verification of source of cash deposit in the bank account under the limited scrutiny. In support, he placed reliance on the CBDT circular and orders of the Tribunals file in brief note which reads as under:

**ITAT. Pune Bench ."SMC" Pune : ITA No. 1518/PUN/2018. 1521/PUN/2018. 1523/PIN/2018. 1528-1530.1532-1535/PUN/2018-ten appeals related to Assessment year 2014-15 heard on 07.02.2019 and decided on 08.02.2019**

All above ten cases were commonly selected for scrutiny under CASS. As per the procedure and as per the Circular of CBDT, the AO constrained to limit to scrutiny to the issue so selected under CASS. In case, if the AO is of the opinion to extend the scrutiny to other issue, the AO is under obligation to obtain the requisite permission from his higher authorities. That being the procedure laid down by CBDT for such matter in all these 10 appeals, the respective AO did not make any addition on the issue which is selected under CASS in the assessments. However, the AO extended the scope of scrutiny to other issues and then made additions rejecting the Return of income filed by the corresponding assesseees. This kind of approach of the AO in making the assessments i.e. beyond the CASS provisions, is outside the scope of the circular of the CBDT dated 08.09.2010. It is also the fact that the AO never obtained the permission from the superior authorities as per the said circular before the scope of the scrutiny extends to NON-CASS issues.

On above similar issue, ITAT, Pune Bench in the case of Suresh Jugraj Mutha Vs.

Addl. CIT in ITA No. 05/PUN/2016 for the assessment year 2011-12 vide order dt 04.05.2018. In that case Tribunal analysed the scope of circulars/provisions and came to the conclusion that such additions made by the AO are not sustainable in law.

Held: Under such circumstances, AO lacs jurisdiction to carry out the scrutiny assessment in the present case and accordingly, assessment order passed by the AO is bad in law.

**Hon'ble Appellate authority**

In our case, case was selected for limited scrutiny to examine source of cash deposited in bank. That's all.

AO did not make any addition on this ground in the assessment order

AO made out the case that we collected cash (without any basis, just on the basis

of AO's own guess work, which is not permitted in law) more by way of online charges / and showed less in ITR. First this was not the issue identified for examination.

Even if it is assumed that AO was right, even then addition to returned income required some documentary evidence which is missing in our case. Even if we

assume that AO had basis or evidence, the same basis or evidence needs to be confronted to assessee in compliance the principles of natural justice, nothing was done like this by AO.

AO had not carried out any exercise to rebut the contention of the assessee that they have not received any sum higher than what has been reported in its books of accounts, therefore no addition could be made.

**RELIANCE IS PLACED ON FOLLOWING CASE LAWS IN SUPPORT OF THIS GROUND OF APPEAL**

**SPOONER INDUSRIES PVT.LTD VS. ITO (ITAT DELHI)**

(a) ITA NO 2780/Del/2019 decided on 28.12.20 Asstt yr 14-15 Addition made by Id. ITO and confirmed by Ld CIT(A) u/s 68 deserves to be deleted for the reason that it was not part of reasons for limited scrutiny.

(b) CIT(A) erred in law and on facts in upholding the action of the Id ITO in framing the assessment which is contrary to Instruction No. 20/2015 dt 29.12.2015 i.e. assessee was asked to furnish the informations which were out of the purview of limited scrutiny guidelines.

**SURESH JUGRAJ MUTHA VS. ADDL. CIT (ITAT PUNE)**

**ITA 05/PUN/2016 decided on 04.05.2018 Asstt year 2011-12 No additions on issues not part of limited Scrutiny**

It is outside the jurisdiction of AO converting the limited scrutiny case like the present one to the unlimited one without the approval of Administrative Commissioner of Income Tax

**ATUL GUPTA VS ACIT (ITAT DELHI)**

**ITA NO. 3384/Del/2019: Decided on 31.08.20 Asstt vr 2015-16**

(a) AO cannot expand scope of limited income tax scrutiny on these facts, when the CBDT instructions did not permit the AO to travel beyond the issues which are authorised by the Board in this regard under CASS. It is held that the addition made by the AO is beyond his jurisdiction.

(b) AO, while passing the assessment order, has not drawn any adverse inference against the assessee on issues on which the case was picked up for limited scrutiny under CASS

**JDB FINANCE VS. DCIT (ITAT KOLKATA) ITA NQ.127/Gau/2019 Decided on 16.09.20 Asstt year 2014-15**

Addition made by AO in limited scrutiny by extending scope into full scrutiny deleted Assessee's case has been selected for limited scrutiny under the CASS. Therefore, we note that the assessee's case was selected for limited scrutiny only and the assessing officer should not have expanded the scope of limited scrutiny without recording reasons for doing so and without taking permission from the concerned Pr. CIT/CIT

**ABCAUS 2883 (2019»04) ITAT : CIT VS. MEKALA BALREDDY Addition made by AO in limited scrutiny by extending scope deleted as AO did not take due permission**

The Assessee contended that his case was selected for limited scrutiny to verify the bank deposits whether deposits were more than the turnover. The Assessing Officer completed the assessment beyond the scope of scrutiny without any approval from Pr.CIT. Widening the scope of assessment is against CBDT in Instruction No. 7/2014 dt 26.09.2014 whereby CBDT had directed that the scope of enquiry by the Assessing Officer should be limited to verification of aspects stated in the Limited Scrutiny Order. AO had scrutinized the issues not authorized by such CASS order and therefore the assessment order to the extent of authorized issues was invalid and valid as the same was violative of the jurisdiction.

**Kindly refer to Instruction No. F.No.DGIT(vig.)/HQ/SI/2017-18 issued by CBDT on 30.11.2017**

**Sub: Unauthorised expansion of the scope of limited scrutiny-instructions-reg**

These guidelines postulate that an Assessing Officer, in limited scrutiny cases, can not travel beyond the issues for which the case was selected. The idea behind such stipulations was to enforce checks and balances upon powers of an AO to do fishing and roving inquiries in cases selected for limited scrutiny

**CBDT Instruction No. 5/2016 dated 14.07.2016 on When a "LIMITED SCRUTINY" case can be covered into a "complete Scrutiny "by the AO**

The above guidelines require that AO to form a reasonable view that there is a possibility of under assessment of income if the case is not examined under "Complete Scrutiny". It is stated that the monetary limits and requirement of

administrative approval from Pr. CIT/CIT/Pr DIT/DIT as prescribed in Para 3(d) of earlier instruction dt 29.12.15 shall continue to remain applicable.

**Kind Attention: Appellate Authority:**

**Guidelines in above instruction were not at all followed by AO**

AO cannot travel beyond the scope of limited scrutiny without prior approval of appropriate authority-Jaipur ITAT In a recent Judgement of Hon'ble ITAT Jaipur pronounced on 27.2.20 in the case of Shri Sita Ram Swami V. The ITO. Ward 4(5) Jaipur it was held that AO cannot travel beyond the scope of limited scrutiny and cannot take up a fresh issue which has no connection with the original issue of limited scrutiny without prior approval of appropriate authority to convert limited scrutiny into complete scrutiny.

Reliance was placed on following case laws in this case

Smt. Gurcharan Kaur Vs. DCIT: ITA No. 692/JP/2019 vide order dt. 5.12.19

7. The Ld. DR stands by the impugned order.
8. Heard. Admittedly, the appellant's assessee case was selected under limited scrutiny for verification of source of cash deposit in its bank account. The Ld. CIT (A) has not deliberated on the expanding of the limited scrutiny assessment without taking any approval of the Pr. CIT for other issues other than verification of source of cash deposit in bank account, an issue of limited scrutiny. However, the AO extended the scope of scrutiny to other issue of service charges from Transport and made additions rejecting the contentions of the assessee. In our view, this kind of approach of the AO in making the assessments i.e. beyond the CASS provisions, is outside the scope of the circular of the CBDT dated 08.09.2010 and thereafter.

9. Recently, in the case of “Shri Sita Ram Swami V. The ITO”, (Supra), the ITAT Jaipur Bench held that AO cannot travel beyond the scope of limited scrutiny and cannot take up a fresh issue which has no connection with the original issue of limited scrutiny without prior approval of appropriate authority to convert limited scrutiny into complete scrutiny.

10. Similar view is held by ITAT Pune Bench in the case of “SURESH JUGRAJ MUTHA VS. ADDL. CIT”, (Supra) that No additions on issues which are not part of limited Scrutiny.

11. In view of the above, CBDT instruction and various judicial pronouncement, we hold that It is outside the jurisdiction of AO to expand the scope of the limited scrutiny without the approval of Administrative Commissioner of Income Tax. Accordingly, the assessment order annulled being void ab initio and bad in law.

12. In the result, the appeal of the assessee is allowed.

*Order pronounced in the open court on 20.12.2022*

**Sd/-  
(Anikesh Banerjee)  
Judicial Member**

**Sd/-  
(Dr. M. L. Meena)  
Accountant Member**

*\*GP/Sr/PS\**

Copy of the order forwarded to:

(1) The Appellant:

- (2) The Respondent:
- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T

True Copy  
By Order