

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER

ITA No.7882/Del/2019
Assessment Year: 2017-18

Aroshi Jain,
P-106, Gali No.7,
Shankar Nagar Extn.,
East Delhi,
Delhi – 110 051.

Vs. ACIT,
Central Circle-28,
New Delhi.

PAN: BHRPJ9677D

(Appellant)

(Respondent)

Assessee by	:	Shri Arvind Kumar, Advocate
Revenue by	:	Shri Om Prakash, Sr. DR
Date of Hearing	:	13.12.2022
Date of Pronouncement	:	07.03.2023

ORDER

This appeal filed by the assessee is directed against the order of the CIT(A)-31, New Delhi, relating to Assessment Year 2017-18.

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

"1. Since the assessee has deposited money during demonetization, the Ld/- A. O. has added the entire amount of cash deposit of Rs. 2,40,000/- and other income as per the statement of the assessee as income, which is arbitrary, uncalled for, unjustified and based on surmises and conjunctures.

2. The message extracted from mobile of Sh. Shashank Jain did not consisted of name of the assessee.

3. The fact that same address was used for opening multiple bank accounts for depositing the alleged demonetized currency, which is arbitrary, uncalled for, unjustified and based on surmises and conjunctures.

4. *The assessee craves the right to add, delete or change any ground of appeal.* ”

3. The Id. Counsel of the assessee submitted that the assessee is a housewife and her income for the year under consideration was below the taxable limit, therefore, no return for AY 2017-18 was filed. He further submitted that as per CBDT Instruction No.3/2017 dated 21.02.2017, point no.1, no further verification is required to be made if total cash deposit during demonetization period is upto Rs.2,50,000/-. He also placed reliance on the order of the ITAT, Delhi in *ITA No.872/Del/2021 in the case of Neeru Jain vs. ITO.*

4. Replying to the above, the Id. Sr. DR supported the orders of the authorities below.

5. On careful consideration of the above submissions, first of all, I may point out that as per the CBDT Instruction No. 03/2017 dt. 21.02.2017, point no. 1 of Annexure "in case of individuals (other than minors) not having any business income, no further verification is required to be made if total cash deposit is up to Rs. 2,50,000/-. In case of taxpayers above 70 years of age, the limit is 5.0 Lacs per person. The source of such amount can be either household savings/savings from past income or amounts claimed to have been received from any of the sources mentioned in Paras 2 to 6 below. Amounts above this cut- off may require verification to ascertain whether the same is explained or not. The basis for verification can be income earned during past years and its source, filing of ROI and income shown therein, cash withdrawals made from accounts etc. It is a trite law that the CBDT Instruction are binding on the income tax authorities. Therefore, the cash deposited by assessee in his bank account

of Rs. 2,40,000/- from her past savings, out of the cash gifts received on marriage and tuition income should not have been brought to tax as per the CBDT Instruction.

6. The ITAT Delhi in ITA No. 872/Del/2021 in the case *Neeru Jain Versus ITO, Ward-67 (4) Delhi (supra)* held:

"In view of the CBDT Circular and relying on the decision of Co-ordinate Bench of Agra Tribunal in the case of Smt. Uma Agrawal, I am of the view that the explanation of the assessee about the source of cash deposits cannot be brushed aside without there being any evidence to the contrary. I therefore direct the deletion of the addition of Rs. 2 lakh upheld by CIT(A). Thus the ground of the assessee is allowed. "

7. In view of the foregoing discussion, I hold that the Instruction No.1 of CBDT Circular No.03/2017 dated 21.02.2017 provides that no further clarification or verification is required to be made in a case of an individual when the deposited amount during demonetization period is upto Rs.2,50,000/-. In the present case, the assessee who is a housewife having no other source of income has deposited Rs.2,40,000/- during demonetization period. Therefore, in view of the CBDT Circular (supra) and the order of ITAT in the case of *Neeru Jain vs. ITO (supra)*, the addition made by the AO and confirmed by the Id.CIT(A) cannot be held as sustainable as the same is clearly against the instructions issued by the CBDT. Therefore, the sole grievance of the assessee is allowed and the AO is directed to delete the addition.

8. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 07.03.2023.

Sd/-

(C.M. GARG)
JUDICIAL MEMBER

Dated: 07th March, 2023.

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi