

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

**ITA No. 7773/DEL/2018
Assessment Year: 2010-11**

Smt. Kanta W/o Sh. Som Pal, VPO Saunda Pur Jattal Road, Panipat. PAN- AXFPD9469C	<u>Vs</u>	Income-tax Officer, Wards-2, Panipat.
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Sh. Anuj Garg, Sr. DR	
Date of hearing	19.04.2023	
Date of pronouncement	21.04.2023	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), Karnal, dated 03.10.2018, pertaining to the assessment year 2010-11. The assessee has raised following grounds of appeal:

“1. That on the facts & in the circumstances of the case proceedings sought to be initiated u/s 147/148 of the IT ACT 1961 are wrong & illegal.

2. That the appellant was an ordinary house wife without doing any profession or business or other sources as such deny her liability to be assessed.

3. That the appellant had no bank dealings and the A.O. has not validly discharged his onus to prove the bank deposits of Rs 1359900/- alleged sales and wrongly taking 15% profit Rs 204000/- as income.

2. Facts giving rise to the present appeal are that the Assessing Officer was having information regarding deposit of cash of Rs. 13,59,900/- in the bank account of the assessee. Before the assessing authority there was no representation on behalf of the assessee. The Assessing Officer, therefore, proceeded to frame best judgment assessment and made addition of Rs. 2,04,000/- . Aggrieved against this the assessee preferred appeal before the learned CIT(Appeals), who also sustained the addition and dismissed the appeal of the assessee. Aggrieved against this the assessee is in appeal before this Tribunal.

3. At the time of hearing no one attended the proceedings on behalf of the assessee. The notice of hearing sent to the assessee at the address furnished by the assessee in form no. 36 has been returned unserved by the postal authorities with the remark “incomplete address”. The assessee has not provided her current address. Therefore, under these facts, appeal is taken up for hearing in the absence of the assessee and is being decided on the basis of material available on record.

4. The learned DR supported the orders of the authorities below.
5. We have heard learned DR and perused the material available on record. Apropos to the grounds of appeal, there is no dispute of the fact that the assessing authority reopened the assessment on the basis of deposit of some amount in the bank account of the assessee. The Assessing Officer treated such deposits as business turn-over of the assessee and computed net profit at 15%. Before the learned CIT(Appeals) the submission of the assessee was that the assessing authority had not mentioned the bank account number. The notice issued by the assessing officer was not received. The assessee is a house-wife and not having any bank account in individual name. The assessee is fully dependent upon her husband, who is having agricultural source of income. However, the learned CIT(Appeals) did not consider these facts and no inquiry was made. The learned CIT(Appeals) sustained the Addition by observing as under:

“2.2 Findings:-

I have examined the facts of the case and the submissions made by the assessee. A perusal of the assessment order shows that enough opportunities were afforded to the assessee to present her case. Even at the appellate stage, the assessee has sought to take shelter under the garb of non- service of notice u/s 148 and 142(1) of the I.T. Act, 1961. The same issue of objection to the proceedings was taken up in the appellant's case for A.Y. 2009- 10 and in my order in Appeal No. IT/71/E/PPT/2016-17 dated 03.10.2018 for the said year, I have held that assessee does not have

a case, as the issue of jurisdiction cannot be faulted. Moreover, as in that year, where she had stated that she was a mere name lender in the joint account held by her and her husband, it was seen that she was unable to discharge her onus in establishing that the deposits did not pertain to her. It is, therefore, very clear that even in this year, the credits in the said bank account remain unexplained. The assessee has conveniently tried to apportion the blame on the A.O. for not mentioning the bank where the account was maintained. It is clearly seen from the records that there was a joint account held by her and her husband in Panipat Urban Cooperative Bank Ltd., Krishanpura, Panipat. The A.O. has been generous in allowing credit for withdrawals pursuant to the said addition. In my view, the addition is justified and I confirm the same.”

6. We are unable to sustain the findings of the lower authorities as the Assessing Officer grossly failed to mention the bank account which was in the name of the assessee where the impugned cash deposits were made. Further, the Assessing Officer has not brought any material to support the finding treating the bank deposits as the turn-over of the assessee. The learned CIT(Appeals) also, without verifying the claim of the assessee that the assessee is a house-wife and fully dependent upon her husband, dismissed the appeal in a casual manner, which is contrary to the mandate of the law. The Revenue could not place any material on record which could support the case of the Assessing Officer that a sum of Rs. 13,59,900/- was found credited into the individual account of the assessee. The impugned order speaks about the joint account but no number is mentioned.

Therefore, in our considered view impugned addition is not justified, same is hereby deleted. The grounds raised in this appeal are allowed.

7. Appeal of the assessee is allowed.

Order pronounced in open court on 21st April, 2023.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI