

**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. 247/DEL/2021  
Assessment Year: 2017-18**

Smt. Kailash Mittal, 151-152, Deepali Enclave, Pitampura, New Delhi-110034 PAN- AAIPM8100H	<u>Vs</u>	ACIT, Central Circle-20, New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Sh. Neeraj Mangal, CA	
<b>Department represented by</b>	Mohd. Gayasuddin Ansari, CIT(DR)	
<b>Date of hearing</b>	20.04.2023	
<b>Date of pronouncement</b>	27.04.2023	

**ORDER**

**PER KUL BHARAT, JM:**

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-27, New Delhi, dated 30.09.2020, pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

- “1. Under the facts and circumstances of the case, the assessment order passed by the Ld. AO is illegal and bad in law.
  2. That the Ld. CIT(A) grossly erred in law and in facts of the case in not quashing the assessment order despite categorical finding that the Ld. AO has not passed a speaking order and has rejected submissions of the assessee with casual remarks.
  3. That the Ld. CIT(A) grossly erred in law in upholding additions of Rs. 3,32,313/- to the income of the assessee on his own presumptions without allowing any opportunity of being heard in this regard.
  4. That the addition of Rs. 3,32,313/- made by Ld. AO and upheld by Ld. CIT(A) is not tenable under the law because of being made only on presumptions without any incriminating evidence in this regard.
  5. That the addition of Rs. 3,32,313/- made u/s 69A of the Act is further not tenable under the law because the amount of Rs. 3,32,313/- do not represent any unexplained money, bullion, jewellery or valuable article but it represented the amount of expenditure made by her.
  6. That the addition of Rs. 3,32,313/- is not tenable under the law and facts of the case as the assessee has duly explained the source of said expenditure.
  7. That the appellant craves the leave to add, substitute, modify, delete or amend all or any ground of appeal either before or during the hearing.”
2. By way of the above grounds, the assessee has challenged the action of the learned CIT(A) in confirming the addition of Rs. 3,32,313/- and also challenging such addition on the ground that there was no incriminating material related to this expenditure.
3. Facts, in brief, are that the assessee filed her return of income on 30.07.2017 at INR 9,31,200/-. A search & seizure operation was carried out by the Revenue.

The assessee's residential premises at 151-152, Deepali Enclave Pitampura, New Delhi was also covered in the search operation carried out u/s 132(1) of the Income-tax Act, 1961, hereinafter referred to as the "Act". Thereafter the Assessing Officer issued a notice u/s 153A of the Act on 29.3.2019. In response thereof the assessee filed return of income declaring income at Rs. 9,39,600/- on 29.08.2019. Thereafter, the Assessing Officer proceeded to frame the impugned assessment. Thereby, he made addition of Rs. 9,28,199/- in respect of the investment made in cash. Aggrieved against this the assessee preferred appeal before the learned CIT(Appeals), who after considering the submissions restricted the addition to the extent of Rs. 3,32,313/-. Aggrieved by this the assessee is in appeal before this Tribunal.

4. The learned counsel for the assessee vehemently argued that the authorities below were not justified in making and sustaining the addition as the assessee had placed all evidences related to such expenditure. He submitted that due to typographical error wrong year was mentioned before the Investigation Wing of the Revenue. He submitted that there was no incriminating material. Therefore, the impugned addition could not have been sustained. He submitted that the sufficient opportunity was not provided to the assessee. Hence, there is miscarriage of justice.

5. On the other hand, learned CIT(DR) opposed the submissions and supported the orders of the authorities below. He submitted that the objection of the assessee is unfounded as the investments were made in cash and the assessee could not explain the source of such cash. He submitted that sufficient opportunity was given to the assessee. He took us through the impugned order and submitted that the fact that learned CIT(Appeals) had considered the evidences as placed before him is a testimony that sufficient opportunity was afforded to the assessee. The assessee grossly failed to support the veracity of the claim made before lower authorities.

6. We have heard rival submissions and perused the material available on record. We find that the learned CIT(Appeals) has given a finding on fact by observing as under:

*“6. Regarding the cash expenses of Rs. 3,32,313/-, the appellant had explained that these cash expenses have been made on 2.12.2017 and in the chart given to the Investigation wing in post search proceedings had inadvertent error of including this amount in the F.Y. 2016-17 instead of 2017-18. It is observed that the construction of the house was completed in FY 2016-17 as no other expense either in cash or cheque had been claimed in any of the partners beyond this period. The appellant had initially given the year of spend in FY 2016-17 and now is claiming that it had made the cash expense of Rs 3,32,313 in FY 2017-18. It is strange that the appellant does not have any evidence of making this expense, does not remember the nature of expense, but remembers the exact date of making this cash expense. To my opinion, the appellant had given correct information to the Investigation Wing, but later in the absence of much cash in hand available with family members, she had tried to explain it from the available cash in hand of FY 2017-18. This is clearly an afterthought as this isolated expense had been claimed in FY 2017-18 without any description of construction*

*expense after completion of the house. In these facts and circumstances of the case, the plea of the appellant cannot be accepted and it is held that this expenditure was made by the appellant in FY 2016-17 only, as per the chart submitted in post search proceedings. However, in the absence of any source of cash available, this amount is held to be paid out of undisclosed sources of income.*

*7. In view of the discussion made in above para, it is held that the appellant had not been able to explain the source of cash expenses of Rs 3,32,313/- on account of construction expenses of Rs. 9,28,199/- claimed to have been made in cash during the year under consideration. Accordingly the addition of Rs9,28,199/-/- made by the AO u/s 69A r.w.s 115 BBE is hereby restricted to Rs 3,32,313/- and this ground of appeal is partly allowed.”*

7. The above finding on fact clearly mentioned that the assessee failed to establish the source of cash. Moreover, the assessee did not file any representation before the Revenue authorities regarding typographical error. It is evident from the records that the learned CIT(Appeals) has given a finding about bank withdrawal and deleted part of addition after considering the same. Thereby, he partly allowed the appeal of the assessee. It is not the case where the learned CIT(Appeals) sustained the addition without considering the material available on record. Therefore, looking to the facts of the present case at this stage the assessee has not made out any case for deletion of impugned addition, hence no interference is called for in the order of learned CIT(Appeals). Grounds raised in this appeal are dismissed.

8. Appeal of the assessee stands dismissed.

Order pronounced in open court on 27<sup>th</sup> 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**