

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

**BEFORE SH. SAKTIJIT DEY, JUDICIAL MEMBER  
AND  
SH. N. K. BILLAIYA, ACCOUNTANT MEMBER**

ITA No.9075/Del/2019  
Assessment Year: 2011-12

<b>ITO Ward- 30 (4) New Delhi</b>	<b>Vs</b>	<b>Tarik Tondon C-163, 1<sup>st</sup> Floor, Greater Kailash-I, New M – Block Market, South Delhi, New Delhi</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. Vivek Vardhan, Sr DR
Respondent by	Sh. Anil Kumar Gupta, CA Sh. Rahul Arora, CA

Date of hearing:	12/06/2023
Date of Pronouncement:	14/06/2023

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal by the revenue is preferred against the order of the CIT(A)-10, New Delhi dated 30.08.2019 pertaining to A.Y.2011-12.

2. The grievance of the revenue read as under :-

1. *Whether on facts and in circumstances of the case, the Ld. CIT(A) has erred in law and on facts in annulling the assessment order ignoring the fact that the proceedings u/s 148 of the Act was initiated on the basis of information received from a credible source i.e. the Investigation Wing of the Department and Central Circle - 26, New Delhi on the basis of which the AO formed the belief that the income chargeable to tax has escaped assessment?*

2. *Whether on facts and in circumstances of the case, the Ld. CIT(A) has erred in law and on facts in annulling the assessment order ignoring the fact that the assessee has not filed the return of income for the AY 2011-12, hence, the information received by the AO could not be verified with the return of income.*
  3. *Whether on facts and in circumstances of the case, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 3,90,00,000/- made by the AO to the income of the assessee on account of undisclosed and undeclared income u/s 69A of the Act ignoring the fact that the assessee did not attend the assessment proceedings and the information in possession of the AO remained unexplained.*
  4. *Whether on facts and in circumstances of the case, the Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs.3,90,00,000/- made by the AO to the income of the assessee on account of undisclosed and undeclared income u/s 69A of the Act ignoring the fact that the assessee failed to discharge his onus to explain the source of cash of Rs.3.90 Crore and the assessment was completed to the best judgment u/s 144 of the Act on the basis of material available on record?*
  5. *The appellant reserves the right to crave, leave to add, alter or amend any of the grounds of appeal before or during the course of hearing of the appeal.*
3. Briefly stated that the facts of the case are that on the basis of the information received from the Investigation Wing the AO came to know that the assessee has received Rs.3.90 crore in cash from Jagwati Devi on account of sale/ purchase of property reasons were recorded for reopening the assessment and accordingly statutory notices were issued and served upon the assessee.
4. In response to the notice assessee filed his return of income which was assessed after making addition of Rs. 3.90 crores.
5. Assessee challenged the reopening of the assessment alongwith addition. It was vehemently contended that the information received by the AO is contrary to the fact as the

assessee has neither purchased nor sold any property. It was strongly contended that the AO has not given any evidence in respect of the said transaction. After considering the facts and the submissions the CIT(A) was convinced that the AO has framed the assessment without any application of mind. The CIT(A) observed that the reopening of the case was made by the AO without going through the facts of the case as it was opened purely on the basis of information of Investigation wing without verifying the same as the AO has not given the description of the property and whether the assessee has sold or purchased the property and there is no detail of the lady Smt. Jagwati Devi who allegedly paid Rs. 3.90 crores in cash to the assessee. Drawing support from the decision of the Hon'ble Jurisdictional High Court in the case of Meenakshi Overseas Ltd. [2017] 82 taxmann.com 300 (Delhi). The CIT(A) quashed the assessment order.

6. Before us the DR relied upon the findings of the AO but could not bring any material evidence to support the assessment. The Counsel for the assessee reiterated what has been stated before the lower authorities.

7. We have carefully considered the orders of the authorities below. The undisputed fact is that the AO has not brought any material evidence on record to show that the assessee has actually entered into any transaction with Smt. Jagwati Devi. In fact surprisingly it is not known whether the assessee has

purchased or sold the property. In our considered opinion the reopening has been done on unverified facts and, therefore, there is no reason to interfere with the findings of the CIT(A). The appeal of the revenue is dismissed.

Order pronounced in the open court on 14.06.2023.

Sd/-  
**[SAKTIJIT DEY]**  
**JUDICIAL MEMBER**

Sd/-  
**[N.K. BILLAIYA]**  
**ACCOUNTANT MEMBER**

Dated: .06.2023

\*Neha\*

Copy forwarded to:

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

Asst. Registrar  
ITAT, New Delhi