

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 433/DEL/2023

Assessment Year: 2012-13

Mamta Rani, 111, South City, Delhi Road, Saharanpur-247001 PAN-AGDPR7826A	<u>Vs</u>	Income-tax Officer, Ward-3(30(2), Saharanpur.
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Sh. Om Parkash, Sr. DR	
Date of hearing	27.07.2023	
Date of pronouncement	31.07.2023	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 08.07.2022 pertaining to the assessment year 2012-13. The assessee has raised following grounds of appeal:

“1. Appeal is filed against the order u/s 250 of the Learned CIT(A), in which Addition of Rs. 11,89,500/- made by the Learned AO made vide his order u/s 144/147 was upheld.

2. The order of the authorities as above in so far as these are against the appellant are opposed to law, weight of evidence, probabilities facts/ circumstances of the appellant’s case.

3. *Appellant denies herself liable to be assessed on an income of Rs. 13,88,150/- as against a total income of Rs. 1,98,650/- returned by the appellant under the facts and circumstances of the case.*

4. *She denies herself to be assessed u/s 144 r.w.s. 147 as the mandatory conditions for assumption of jurisdiction u/s 144 of the Act have not been complied with on the ground that :*

a) impugned reasons provided by the AO for using Section 69A are not reasons to believe, are reasons to suspect which is impermissible in the eyes of law.

5. *Appellant has'nt got any real opportunity of being heard before any of the Assessment/Appellate authorities.*

2. The assessee has filed application for condonation of delay in filing the appeal before the Tribunal. Considering the averments made in the application, the delay in filing the appeal is condoned and the appeal is taken up for hearing.

3. Facts giving rise to the present appeal are that in this case there was AIR information regarding cash deposits by the assessee in her SB Bank a/c no. 910010038460044 of Axis Bank Ltd., Court Road, Saharanpur. The case was reopened and in response to the statutory notices no one attended the proceedings, therefore the assessing authority made addition of the entire cash deposits. Aggrieved against this the assessee preferred appeal before the learned CIT(Appeals) who sustained the addition, inter alia, by observing as under:

“4.3 During the appellate proceedings, the appellant has filed written submission wherein it is submitted that she is running boutique and also stitching dresses on freelancing basis. The sale proceeds and payment

against stitching was mostly made by the customers in cash which was immediately deposited in her aforesaid SB account. Further, the appellant has submitted that she is submitting the copies of her Axis bank account for the F.Y. 2011-12 as evidence in support of her contention but no evidence of proof is attached along-with submission. The appellant only giving the reasons for not attending the assessment proceedings before the AO that how the AO erred in making the addition of Rs. 11,89,500/- u/s 69A of the Act. The onus is, therefore, upon the appellant to prove the source of cash deposit which has not been proved by the appellant through any evidence or material on record during the assessment as well as appellate proceedings. Therefore, the addition of Rs. 11,89,500/- made by the Assessing Officer is accordingly upheld.”

Aggrieved against this the assessee is in appeal before this Tribunal.

4. No one attended the proceedings at the time of hearing. It is seen from the record that for many dates no one has been attending the proceedings. Therefore, I proceed to dispose of the appeal, ex parte, qua the assessee on merits and in that process I have heard learned DR and perused the material available on record.

5. In respect of the impugned addition the learned DR supported the orders of authorities below and submitted that the assessee has been negligent in providing the relevant evidence.

6. I have heard learned DR. I find that the assessee has filed copy of bank statement of the bank account on the basis of which the impugned addition has been made. From the bank account statement it is transpired that the assessee had deposited in cash and there were withdrawals out of the cash deposits. Looking to the facts of the case that there were substantial withdrawals and deposits, the lower

authorities have not given set off of the cash withdrawals made by the assessee at different intervals, I find that there were cash withdrawals as well before making deposits. Therefore, it can be assumed that the deposits were also from the withdrawals made by the assessee on earlier occasions. Hence, considering the totality of the facts and to subserve the substantial interest of justice in my considered view it would be fair and reasonable to restrict the addition made by the authorities below to the extent of 20%. The assessee shall get part relief accordingly. Grounds of appeal are partly allowed.

7. In the result, appeal of the assessee is partly allowed.

Order pronounced in open court on 31st July, 2023.

**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**