

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
DELHI**

**BEFORE: SHRI SAKTIJIT DEY, HON'BE VICE PRESIDENT
&
SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.672/Del/2023
(Assessment Year: 2012-13)**

The DCIT, International Taxation, Circle-Gurugram, Haryana 122002	Vs.	Gupreet Kaur Panesar, V-10/13 DLF Phase-3, Gurugram, Haryana 122002
PAN/GIR No. BARPP 7875 A		
(Appellant)	..	(Respondent)

Assessee by	Shri Baldev Raj, CA Shri Maneesh Upneja, CA
Revenue by	Shri Sanjay Kumar, Sr.DR
Date of Hearing	19/10/2023
Date of Pronouncement	30/10/2023

ORDER

PER M. BALAGANESH (A.M):

This appeal in ITA No.672/Del/2023 for A.Y. 2012-13 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-43, Delhi in appeal No.11075/2019-20 dated 27.12.2022 (hereinafter referred to as Id. CIT(A) in short) against the order of assessment passed u/s.143(3) r.w.s 147 of the Income Tax Act, 1961.

2. At the outset, there is a delay in filing of appeal by the revenue by 7 days before us. The condonation petition in this regard had been duly filed and considering the reason adduced thereon, the delay is hereby condoned and appeal of the revenue is admitted for adjudication.

3. The revenue has raised the following grounds of appeal before us:-

1. Whether on the facts and circumstances of the case, the Ld. CIT(A) erred in accepting the additional evidences submitted by the assessee without considering Rule 46A of the Income tax Rules, 1962?

2. Whether on the facts and in the circumstances of the case, the Ld. CIT(A) erred in holding that documentary evidences of having joint account were submitted before the then AO which is not correct and this was part of record available with Ld. CIT(A) and in turn, his decision is perverse on facts?

3. Whether on the facts and in the circumstances of the case, the Ld. CIT(A) erred in not forwarding the additional evidences for remand proceedings?

4. We have heard the rival submissions and perused the materials available on record. The assessee is a non-resident (citizen of USA) and had not filed her income tax return for the Asst Year 2012-13. The Id AO observed that as per information available with the department, the assessee had made a time deposit of Rs 3,80,00,000/- with Bank of India and interest income of Rs 30,94,466/- during the year under consideration. Accordingly, the assessment for the Asst Year 2012-13 was sought to be reopened by issuance of notice u/s 148 of the Act on 30.3.2019 after recording the reasons for reopening and after obtaining necessary approval from the Principal Commissioner of Income Tax- 17, New Delhi u/s 151 of the Act. The assessee in response to notice u/s 148 of the Act filed here return of income on 17.5.2019 declaring total income of Rs 31,58,430/- offering the interest income under the head income from other sources.

5. The assessee submitted that the investment in time deposit was made out of money received by her from her husband Shri Sameer Gupta from USA and furnished the copy of remittance by bank before the Id. AO . It was also submitted that the said investment was made by her husband Shri Sameer Gupta out of tax paid money in USA. The assessee also furnished her income tax return and of her husband filed in USA. The Id AO however in the reassessment noticed that the assessee had not established the genuineness of the transaction as no confirmation was furnished by the assessee to

establish her claim. Accordingly, the Id AO proceeded to treat the investment in time deposit to have been made out of unaccounted sources by the assessee and added the same u/s 69 of the Act in the re-assessment.

6. Before the Id. CIT(A), the assessee submitted that USD 875000 was transferred on 17.6.2011 from Shri Sameer Gupta from his savings account at JP Morgan Chase Bank No. 2912572597 and that the said money was wired into joint account of his wife Gurupreet Kaur Panesar (assessee herein before us) and Mrs Swaranjit Kaur Panesar (mother of Shri Sameer Gupta) in Account No. 60081010020592 with Bank of India. Shri Sameer Gupta also confirmed the purpose of making this transfer as to buy home for his parents, but the transaction did not materialize and hence the money was deposited into fixed deposit. Shri Sameer Gupta had also confirmed that the money was transferred from his savings and he is a salaried employee duly assessed to income tax as per US tax laws.

7. The Id. CIT(A) observed that assessee's father Capt. S S Panesar attended the hearing before him and furnished all the requisite details to prove the source of investment made in time deposit. The Id CIT(A) also observed that all the requisite details were indeed already furnished by the assessee before the assessment proceedings itself. We find that hence there is absolutely no violation of provisions of Rule 46A of the Income Tax Rules as alleged by the revenue in its grounds. In fact the revenue was not able to bring on record what were the new evidences that were filed by the assessee before the Id CIT(A) for the first time to allege the violation of provisions of Rule 46A of the Income Tax Rules. We find that the Id CIT(A) had appreciated the very same documents that were already filed before the Id. AO and had concluded that the source for making investment in time deposits were duly explained to have come from assessee's husband by way of money transfer from USA. None of these factual findings recorded by the Id. CIT(A) were controverted by the revenue before us and hence we do not find any

infirmity in the order of the Id. CIT(A) granting relief to the assessee. Accordingly, the grounds raised by the revenue are dismissed.

8. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 30/10/2023.

Sd/-
(SAKTIJIT DEY)
VICE PRESIDENT

Sd/-
(M.BALAGANESH)
ACCOUNTANT MEMBER

Delhi; Dated 30/10/2023

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Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Delhi.
4. CIT
5. DR, ITAT, Delhi
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Delhi