

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCHES: 'F', NEW DELHI)**

BEFORE: SHRI M. BALAGANESH, ACCOUNTANT MEMBER

AND

MS. ASTHA CHANDRA, JUDICIAL MEMBER

ITA No:- 856/Del/2022

{Assessment Year: 2016-17}

Smt. Poonam Bajaj, Plot No. 2, shivaji Enclave , Main Road, Rajouri Garden, Delhi-110027.	Vs.	DCIT, Central Circle-32, Delhi.
PAN No: AARPM7367D		
APPELLANT		RESPONDENT

Assessee by : Shri Ved Jain, Adv. and
Shri Aman Garg, Adv.
Revenue by : Shri P N Barnwal, CIT(DR)

Date of Hearing : 23.11.2023
Date of Pronouncement : 30.11.2023

ORDER

PER M. BALAGANESH, AM

This appeal of the Assessee arises out of the order of the Commissioner of Income Tax (Appeals),-30, New Delhi, [hereinafter referred to as [Ld. CIT] in Appeal No. 10423/2019-20, dated 03.03.2022 against the order of assessment passed u/s 153A r.w.s. 143(3) of the Income Tax Act, 1961 [hereinafter referred to as Act] dated 17.12.2019 by the Ld. Assessing Officer, DCIT, Central Circle-

32, New Delhi (hereinafter referred to as Id. AO) pertaining to Assessment Year 2016-17.

2. The assessee has raised the following grounds of appeal:-

" 1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) [CIT(A)] is bad both in the eye of law and on facts.

2. On the facts and circumstances of the case, the order passed by the learned CIT(A) is bad both on facts and in law as the same has been passed without giving the adequate opportunity of being heard in gross violation of principle of natural justice.

3. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of the assessee that the order passed by the learned AO under section 153A r.w.s 143(3) is illegal and bad in law as the same has been passed without having valid jurisdiction.

4. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of the assessee that the order passed by the AO under section 153A r.w.s. 143(3) is bad and liable to be quashed as the same has been framed consequent to the search which was initiated under the wrong pretext.

5. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of the assessee that the order passed by the learned AO under section 153A r.w.s 143(3) is bad and liable to be quashed as the same has been framed consequent to a search which itself was unlawful and invalid in the eyes of law.

6. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of the assessee that the assessment order passed by the AO is illegal and liable to be quashed as the same has been passed violating the provisions of section 124 of the Income Tax Act.

7. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of the assessee that the proceedings initiated under section 153A against the appellant and the assessment framed under section 153A r.w.s. 143(3) are in violation of the statutory conditions of the Act and the procedure prescribed under the law and as such the same is bad in the eye of law and liable to be quashed.

8. *On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of the assessee that the learned AO has erred, in passing the order despite the fact that the notice issued under section 143(2) is barred by limitation as the same has been issued beyond the statutory time limit prescribed under the Act.*

9. (1) *On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of the assessee that notice issued 142(1) of the Act is bad in law as the same was issued prior to the issue of notice under section 143(2) of the Act*

(ii) *That the learned CIT(A) has erred, both on facts and in law, in confirming the action of the learned AO in drawing adverse inference against the appellant on the basis of above notice issued under section 142(1) of the Act which itself is invalid*

10. *On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of the assessee that the learned AO has erred in making the addition in order passed u/s 153A r.w.s 143(3) of the Act, without any incriminating material having been found during the course of search.*

11. (i) *On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of the assessee that the proceedings initiated under section 153A against the appellant and the consequent reassessment framed under section 153A r.w.s 143(3) are in violation of mandatory provisions of Section 153D of the Act and as such the same is bad in eyes of law.*

(ii) *That the CIT(A) has erred in ignoring the contention of the assessee that the purported approval u/s 153D of the Act is illegal, bad in law and also without any application of mind.*

12. *On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in rejecting the contention of the assessee that the assessment order passed by the AO is invalid and bad in law as the same was passed in violation of the circular No. 19/2019 issued by CBDT which mandates that no order shall be passed without there being valid Document Identification Number (DIN)*

13. (i) *On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in confirming the addition of Rs. 95,000/- on account of cash deposited in the bank account treating the same as income of the assessee as income from undisclosed sources.*

(ii) *That the abovesaid addition has been confirmed ignoring assessee's explanation regarding the source of cash deposited in the bank account.*

14. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the above addition by indulging in surmises without bringing on any direct evidence against the assessee, only on the basis of presumption and assumption.

15. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in confirming the action of the AO in wrongly charging interest under section 234B and section 234C of the Income Tax Act.

16. On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in confirming the action of the AO in determining the tax liability as per section 115BBE of the Act.

17. That the appellant craves leave to add, amend or alter any of the grounds of appeal."

3. Grounds numbers 1 to 12 raised by the assessee were stated to be not pressed by the Id. AR at the time of hearing. The same is reckoned as a statement made from the bar and accordingly ground numbers 1 to 12 are hereby dismissed as not pressed.

4. The ground numbers 13, 14 and 16 are interconnected dealing with addition made on account of cash deposit of Rs. 95,000/-.

5. We have heard rival submission and perused the materials available on record. The return of income for the assessment year 2016-17 was filed by the assessee on 27.03.2017 declaring total income of Rs. 7,09,329/- under the head income from other sources which included other income offered in the sum of Rs. 6,78,529/-. Admittedly this other income of Rs. 6,78,529/- was earned by the assessee only in cash and that the same was not credited in the bank account of

the assessee. The assessee during the year made cash deposits on the following dates in IDBI Bank in Account Number- 75925:-

- 14.03.2016 - 40,000/-
- 15.03.2016 - 35,000/-
- 26.03.2016 - 20,000/-

6. The assessee also made cash withdrawals on 24.11.2016 from the same bank account amounting to Rs. 50,000/- which sum is definitely available as a source for explaining cash deposits. Hence, to this extent the assessee would be automatically eligible for credit. With regard to the remaining sum of Rs. 45,000/- of cash deposits, as stated earlier, we find that assessee had duly offered the other income of Rs. 6.78 lakhs earned in cash, which itself explains the source for making cash deposit of Rs. 45,000/-. Hence, we hold that the entire cash deposits of Rs. 95,000/- stands duly explained by the assessee and there is no scope for making any addition. Hence grounds no. 13, 14 and 16 raised by the assessee are allowed.

7. Ground no. 15 raised by the assessee is challenging the interest u/s 234B of the Act which is consequential in nature and does not require any specific adjudication. With regard to interest u/s 234C of the Act, the law is very well settled that the same shall be charged only on the returned income and not on the assessed income.

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

Order pronounced in the open court on 30.11.2023.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Sd/
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 30 /11/2023

Pooja, Sr. P.S.

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI

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