

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

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.1187/Del/2023
Assessment Year: 2011-12

Sh. Kamlesh Bhalla, N-35, Kirti Nagar, New Delhi	Vs.	DCIT, Circle-Intl. Taxation -1(1)(2), New Delhi
PAN :ANXPB3446P		
(Appellant)		(Respondent)

Assessee by	Sh. Anil Chopra, CA
Department by	Sh. Sanjay Kumar, Sr. DR

Date of hearing	15.11.2023
Date of pronouncement	29.11.2023

ORDER

PER SAKTIJIT DEY, V.P.

This is an appeal by the assessee against order dated 23.03.2022 of learned Commissioner of Income Tax (Appeals)-42, Delhi, pertaining to assessment year 2011-12.

2. The dispute in the present appeal is confined to addition of an amount of Rs. 45 lakhs under section 69A of the Act.

3. Briefly the facts are, the assessee is a non-resident individual. Based on information received that the assessee had

invested an amount of Rs.1,46,00,000/- in mutual funds in the year under consideration, whereas, the assessee has not filed any return of income, the Assessing Officer reopened the assessment under section 147 of the Act. Alleging that the assessee did not comply with statutory notices issued under section 148 and 142(1) of the Act, the Assessing Officer treated the entire investment of Rs.1,46,00,000/- as unexplained investment and added back to the income of the assessee. The assessee contested the aforesaid addition before learned first appellate authority.

4. Before the first appellate authority, the assessee furnished certain evidences to explain source of the investment. The evidences furnished by the assessee were forwarded to the Assessing Officer for examination and submitting a report. After considering the remand report of the Assessing Officer as well as the evidences furnished before him by the assessee, learned first appellate authority found that the investments in mutual funds were made out of the funds available in the NRE Account of assessee's husband. However, while examining the bank account, he noticed that on 30.08.2010, there were six remittances aggregating to Rs.45 lakhs. When the assessee was called upon to explain the source of those remittances, it was submitted that

such remittances were received from Kuwait. However, observing that assessee's Authorized Representative admitted that no proof of such bank account is available, the first appellate authority added back the amount of Rs.45 lakhs as against the addition made of Rs.1,46,00,000/- by the Assessing Officer.

5. Having considered rival submissions, we find that the specific case of the assessee before the first appellate authority is to the effect that the investments in mutual funds were made from the funds available in her husband's bank account. Apparently, learned first appellate authority has accepted the source of investment in mutual funds to be from the funds available in husband's bank account. However, while examining assessee's husband's bank account, he found certain remittances aggregating to Rs.45 lakhs, which according to him, remained unexplained. Hence, he added the said amount to the income of the assessee. When assessee's explanation that investment made in mutual funds was out of the funds available in husband's bank account has been accepted, we do not find any rationale behind the addition made of Rs.45 lakhs representing certain remittances appearing in husband's bank account. Certainly, the assessee cannot be hauled up for the remittances appearing in her

husband's bank account. If the department was not convinced with the source of remittances appearing in the account of assessee's husband, it was open for the department to proceed against the husband and not the assessee.

5. In view of the aforesaid, we are inclined to delete the addition of Rs.45 lakhs.

6. In the result, appeal is allowed.

Order pronounced in the open court on 29th November, 2023

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Dated: 29th November, 2023.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi