

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 7802/Del/2019
(Assessment Year: 2014-15)
Ms Priyanka Kumaar, Vs. ITO,
D-14, 2nd Floor, Ward-30(5),
Nehru Enclave, New Delhi
Kalkaji, New Delhi
(Appellant) (Respondent)
PAN: AHGPA8267J

Assessee by : Shri K. Sampath, Adv
Shri V. Rajakumar, Adv
Revenue by: Shri Vivek Vardhan, Sr. DR
Date of Hearing 12/02/2024
Date of pronouncement 19/04/2024

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.7802/Del/2019 for AY 2014-15, arises out of the Id. Commissioner of Income Tax (Appeals), 33, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 678/2018-19 dated 26.07.2019 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 19.12.2016 by the Assessing Officer, ITO, Ward-30(5), New Delhi (hereinafter referred to as 'Id. AO').
2. The only issue to be decided in this appeal is as to whether the Id.CIT(A) was justified in confirming the addition made by the Id. AO in the sum of Rs 72,32,260/- towards cash deposits made in the bank account in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. The assessee is engaged in the activities of Tarot and Vastu Consultancy together with purchase and sale of the pertinent items relevant to its consultancy services. The assessee is a qualified Tarot Reader and an expert in Vastu Sciences. She had been conferred a Ph.D Degree from the Open International University for Complimentary Medicines in Jan 2001. She had also secured a Diploma in the Interior Design from the South Delhi Polytechnic for Women. She had attended a course at the All India Federation of Astrologers Societies in 2009 in Tarot Reading. Besides she has Certificates of Association from other similar bodies such as Crystal Healing, Interior Design and Vastu Consultation and Hypnosis & Self Hypnosis classes and similar others. She has been delivering lectures as an expert at various places on these subjects. The return of income for the Asst Year 2014-15 was filed by the assessee u/s 44AD of the Act on a turnover of Rs 45,15,930/- with resultant income of 8% thereof at Rs 3,74,155/-. The assessee furnished the bank statements before the Id. AO. The bank statements revealed that assessee had received RTGS payments for the services rendered by her to different parties at different times and at various locations namely Jalandhar, Shri Ganga Nagar, Jaipur, Firozpur, Guwahati, Ludhiana, Amritsar, Saharanpur, Faridabad, Varanasi, Shahjahanpur, Allahabad, Udham Singh Nagar, Panipat, Karnal etc. The assessee had also received fees from certain clients in cash. Hence the income of the assessee comprises of both cash and cheque fees received from clients. The assessee gave the list of its clients before the Id. AO. Notice u/s 133(6) of the Act was issued to some of the clients of the assessee. The clients denied having any connection with the assessee. Accordingly, the Id. AO was not satisfied with the explanations of the assessee. The assessee explained the cash deposits made in the bank account were out of cash fees received from the clients and cash withdrawals made in the bank account, which was sought to be disbelieved by the Id. AO. The Id. AO proceeded to add the cash deposits made in the bank account in the sum of Rs 72,32,370/- in the assessment which was upheld by the Id. CIT(A).

4. The educational qualification and the other qualifications listed above are not disputed by the revenue before us. The evidences to this effect are enclosed in the paper book filed before us. The only logical source of revenue for the assessee would be out of rendition of the aforesaid services pursuant to her qualification. It is not in dispute that the assessee had declared her income in the return in accordance with the provisions of section 44AD of the Act and it was submitted that assessee is not required to maintain books of accounts. It is also a fact that the assessee had not maintained books of accounts during the year. Hence the entire credits in the bank account is to be construed only as receipts derived from out of services rendered and the same would be liable to be taxed at the rate of 8% in accordance with provisions of section 44AD of the Act. Considering the nature of services rendered, the assessee is bound to earn revenues predominantly only in cash and hence the explanation given by the assessee cannot be disbelieved. There cannot be any addition separately that could be made towards unexplained cash deposits. What is to be added is only 8% of the total credits in the bank account except savings bank interest and interest on deposits u/s 44AD of the Act. In our considered opinion, this would meet the ends of justice. The savings bank interest and fixed deposit interest, if any, would be separately liable to be taxed as income from other sources. The Id. AO is hence directed to recompute the income in the following manner:-

a) From the entire credits in the bank account , the following items are to be eliminated

- entries in respect of cheques dishonoured
- Fixed deposits maturity value with interest
- Savings Bank Interest

b) On the remaining balance, to apply 8% as per section 44AD of the Act.

c) Fixed deposit interest and savings bank interest to be separately taxed as income from other sources.

5. In our considered opinion, considering the totality of the facts and circumstances of the case and also considering the nature of various services rendered by the assessee in consonance with her qualifications, the aforesaid directions to recompute the income of the assessee would meet the ends of justice. The assessee is directed to co-operate with the Id. AO by furnishing the requisite breakup of the aforesaid amounts. The grounds raised by the assessee are disposed of in the abovementioned terms.

6. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 19/04/2024.

-Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 19/04/2024

A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi