

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

**BEFORE SHRI G. S. PANNU, VICE-PRESIDENT
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.1051/Del/2021
(Assessment Year : 2011-12)

DSKN Jewellers	Vs.	ITO
C/o. Mr. Samar Kapoor, Adv.		Ward – 46(3)
Chamber No.E-523, Karkardooma		New Delhi
Court, Delhi-32		

PAN No. AAHFD 2162 M

(APPELLANT)

(RESPONDENT)

Assessee by	:	None
Revenue by	:	Shri Sumesh Swani, Sr. D.R.
Date of hearing	:	24.01.2024
Date of Pronouncement	:	18.04.2024

ORDER

PER ANUBHAV SHARMA, JUDICIAL MEMBER :

This appeal is preferred by the assessee against the order dated 01.08.2019 of the Commissioner of Income Tax (Appeals)-16, New Delhi (hereinafter referred to as Ld. First Appellate Authority or in short Ld. 'FAA') in appeal No.10402/18-19 arising out of an appeal before it against the order dated 29.12.2018 passed u/s 144 r.w.s. 147 & 148 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') by the ITO, Ward 46(3), New Delhi (hereinafter referred as the Ld. AO).

2. The grounds of appeal raised read as under :

1. *“ That since notice dated 31/03/2018 under Section 148 of the Income Tax Act (the Act) was not served on the Assessee in accordance with law, the reassessment made consequent thereto was without jurisdiction and liable to be quashed.*
2. *That no notice dated 31/03/2018 was issued within the period of limitation as prescribed under Section 149(1)(b) read with Section 148(1) of the Income Tax Act and, therefore, the initiation of proceeding for reassessment is barred by limitation and even otherwise, alternatively, no notice was served to the petitioner under Section 148(1) of the Income Tax Act, as such, initiation of proceeding for reassessment deserve to be quashed.*
3. *That the notices u/s 142(1) dated 11/07/2018, 15.11.2018, 20.11.2018, 12.12.2018, notice u/s 271(1)(b) dated 19/12/2018 and notice under section 142(1) r.w. Section 144 dated 19/12/2018 were never served on the assessee as per Section 27 of the General Clauses Act, 1897 read with section 282 of the Income Tax Act, 1961 hence assessment order dated 29/12/2018 is liable to be quashed.*
4. *That the Assessment Order under section 144 with read section 147 dated 29/12/2018 is liable set aside as neither notice under section 143(2) was issued nor served on the assessee.*
5. *That the assessing officer is wrong in making addition of Rs. 1,36,69,033/- being 10% on total cash credit of Rs. 13,66,90,335/- without any cogent justification.*
6. *That the ld. CIT(A) erred in upholding assessment u/s 144/147 without giving proper opportunity to the assessee in due haste and contrary to the records and when so called notice dated 17.07.2019 has been received after the date of hearing.*
7. *That the appellant craves leave to add or amend any ground of appeal at the time of hearing the appeal.”*

3. At the time of hearing, none appeared for the assessee and the record

shows that randomly on some occasions authorised representative had earlier

appeared. The notice issued for today was received back with the report that there is

no such person at the address provided in Form No.36. No further opportunity is

justified. The arguments of Ld. DR were heard who supported the findings of ld. tax

authorities below.

4. The brief facts of the case are that the AO was in receipt of information from the office of ITO (Investigation)- Unit 5(2), New Delhi that M/s DSKN Jewellers made voluminous transactions routed through its different accounts amounting to Rs. 13,66,90,335/- during the A.Y 2011-12. It was noted that huge credits appearing in the bank statements of the assessee, were not commensurate with the income of Rs. Nil filed by the assessee in its ITR for the year under consideration. The AO formed a prima facie belief that a sum of Rs.13,66,90,335/-, which was chargeable to tax, has escaped assessment for AY 2011-12. Accordingly, a notice under section 148 of the Income Tax Act, 1961 was issued on 31.03.2018 through speed post after recording reasons and after seeking and being accorded approval by the Competent authority under the provisions of section 151 of the Act. The assessee did not respond to notice u/s 148 or file a return in response to the said notice. Statutory notices issued by the AO also met the same fate as did the final show cause issued by the AO. The AO, accordingly invoked the provisions of Section 144 of the income Tax Act and made a best judgement assessment, wherein the AO held that 1,36,69,033/- was unexplained income of the assessee, being 10% of credits of Rs 13,66,90,335/-.

5. As observed by the CIT(A), we to find that huge credits appearing in the bank statements of the assessee, were not commensurate with the income of Rs. Nil filed by the assessee in its ITR for the year under consideration. During the course of assessment proceedings, the AO issued several statutory notices. However, the appellant completely disregarded the notices. In the absence of any evidence to

controvert the finding of the Investigation Wing, the AO was justified to treat the entire credits in the bank account amounting to Rs. 13,66,90,335/- during the A.Y 2011-12. as unexplained credits and treated 10% of the profits on such credits amounting to Rs 1,36,69,033/- as the unexplained income of the appellant. CIT(A) has thus made no error in confirming the addition by relying to the settled proposition of law in *Independent Media (P.) Ltd 210 TAXMAN 14 (Delhi)(2012)* that came up and *Sumati Dayal Vs CIT (SC) 214 ITR 801 & Sreelekha Banerjee & Ors. Vs CIT (SC) 49 ITR 112*, that where any sum is found credited in the books of the assessee for any previous year it may be charged to income tax as the income of the assessee for that previous year if the explanation offered by assessee about the nature and source thereof is, in the opinion of the Assessing Officer, not satisfactory. We find no error in findings. The grounds have no substance. **The appeal is dismissed.**

Order pronounced in the open court on 18.04.2024

Sd/-

Sd/-

(G. S. PANNU)
VICE PRESIDENT

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Date:- 18 .04.2024

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Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI