

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI**

**BEFORE
SHRI S RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 4399/Del/2018
Asstt. Year: 2011-12

ITO, Ward-30(4), New Delhi	Vs.	Rashmi Rajiv Mehta E-52, Raheja Atlantis, Sector - 31, NH-8, Gurgaon Haryana Pin 122002 PAN AKSPM6239M
(Appellant)		(Respondent)

CO No. 181/Del/2018
Arising out of ITA 4399/Del/2018
Asstt. Year 2011-12

Rashmi Rajiv Mehta E-52, Raheja Atlantis, Sector - 31, NH-8, Gurgaon Haryana Pin 122002 PAN AKSPM6239M	Vs.	ITO, Ward-30(4), New Delhi
(Appellant)		(Respondent)

Assessee by:	Shri Ved Jain, Advocat Ms. Supriya Mehta, CA
Department by:	Shri Vivek Vardhan, Sr. DR
Date of Hearing:	15.04.2024
Date of pronouncement:	24.04.2024

ORDER

PER VIMAL KUMAR, JM

The appeal and cross objection are against order dated 15.10.2017 of the Learned Commissioner of Income Tax (Appeals)

through which addition of Rs. 2,33,30,000/- by Learned Assessing Officer was deleted vide order dated 28.03.2016 by ITO Ward-30(3) New Delhi under section 147/143 of the Income Tax Act 1961 for the assessment year 2011-12.

2. Brief facts of the case are that assessee Smt. Rashmi Rajiv Mehta an individual had not filed her income tax return for assessment year 2011-12 and deposited huge cash in her bank account. On 07.11.2014 in response notice under section 148 dated 26.09.2014 declaring an income of Rs. 5,15,540/-. In the assessment order under section 143(3) r.w.s 147 of the Act Learned CIT(A) deleted the addition made by the Learned AO on account of cash deposit of Rs. 2,54,30,000/- in the bank account invoking Section 68 of the Income Tax Act.

3. Learned AO computed the figure Rs. 2,54,30,000/- comprising total of AIR information, CIB information and TEP information. In response to notice under section 148 assessee filed her return declaring total income of Rs. 5,15,540/- comprising of short term capital gain of Rs. 2,75,494/- and interest income of Rs. 2,40,050/-. During the course of assessment proceedings, the Learned AO asked the assessee to justify source of deposit of cash of Rs. 2,54,00,000/-. The assessee submitted that the actual deposit of cash in the bank account was Rs. 1,27,00,000/- and not 2,54,00,000/-. Bank statements were submitted. The assessee submitted that Rs. 21,00,000/- was deposited by her husband Mr. Rajiv Mehta and balance of Rs. 1,06,00,00/- was deposited out of the cash

withdrawal of Rs. 1,43,43,000/-. The assessee submitted copy of confirmation signed by Mr. Rajiv Mehta regarding deposit of Rs. 21,00,000/-. Ignoring the details and explanation supported by the evidence the Learned AO made addition of Rs. 2,33,30,000/- no assessment order was passed in the case of Mr. Rajiv Mehta for the year 2011-12 by the Learned AO.

4. Being aggrieved appellant preferred an appeal before the Learned CIT(A) which was allowed through order dated 15.12.2017. The Department preferred appeal and assessee preferred cross objection. In grounds of appeal it was pleaded that the Learned CIT(A) erred in deleting addition of Rs. 2,54,30,000/- made by the Learned AO without appreciating the findings of the Learned AO. Learned CIT(A) ignored the circumstantial fact that rarely a person would withdraw cash from his account in such a huge proportion and again deposit it after a consideration time not in lumpsum but in parts without any identifiable reason. Learned CIT(A) erred in not appreciating the law that the onus was on the assessee to establish with documents that cash deposited had been withdrawn earlier which the assessee failed during the assessment proceedings.

5. In cross objection assessee pleaded that Learned CIT(A) erred in upholding the reopening of assessment done by the AO despite the fact that the initiation of the proceedings under section 147 r.w. section 148 is bad and liable to be quashed. Learned CIT(A) erred in upholding the reopening of assessment despite the fact that the Learned AO had reopened the

assessment on the basis of doubt and suspicion. There was no fresh tangible material with the Learned AO to form any opinion regarding escapement of income.

6. At the time of hearing, Learned AR submitted that assessee preferred not to press the cross objection. After hearing, Learned Counsel for the Department and assessee and perusal of record it is evident that assessee had deposited Rs. 1,27,30,000/- and that out of that amount Rs. 21,00,000/- was deposited by her husband Mr. Rajiv Mehta and given to her towards household expenses in FY 2010-11 while the balance was deposited by her out of her earlier withdrawal. Copies of relevant bank statements had been filed. The details of withdrawals made by the appellant came to Rs. 1,43,43,000/- on 32 occasions and were reflected in her bank statement account of HDFC Bank. The assessee had withdrawn Rs. 2,50,00,000/- on 29.04.2010 from her HDFC bank Mehrauli Branch which had credit balance of Rs. 4,31,77,847/- . From AIR data it is observed that sum of Rs. 2,50,00,000/- was not deposited in appellant's bank account but was a withdrawal towards time deposit which was subsequently found to be credited in the bank account being FD Premat Principal and Premat interest Rs. 33,904/- on 21.05.2010. Therefore the order of Learned CIT(A) is legal and sustainable. The grounds of appeal of the Department being devoid of merit are untenable. Cross objection is dismissed as not pressed.

7. No other point was argued.

8. In the result appeal of the Revenue is dismissed and cross objection is dismissed as not pressed.

Order pronounced in the open court on 24th April, 2024.

sd/-

**(S RIFAUZ RAHMAN)
ACCOUNTANT MEMBER**

sd/-

**(VIMAL KUMAR)
JUDICIAL MEMBER**

Dated: 24/04/2024

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

ASSISTANT REGISTRAR
ITAT, New Delhi

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Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
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