

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JAIPUR BENCHES, "SMC" JAIPUR**

**BEFORE SH. SANDEP GOSAIN, JUDICIAL MEMBER  
AND DR. M. L. MEENA, ACCOUNTANT MEMBER**

**I.T.A. No. 49/JPR/2024**  
Assessment Year: 2011-12

Neha Meena,  
A-42, Dadhich Nagar,  
Jaipur-302013, Raj.  
[PAN: BGFPM0987C]

Vs. DCIT, Circle-4, Jaipur

**(Appellant**

**(Respondent)**

Appellant by : Sh. S.L. Poddar, Advocate  
Respondent by : Sh. Monisha Chaudhary, Addl. CIT  
Date of Hearing : 05.03.2024  
Date of Pronouncement : 08.04.2024

**ORDER**

**Per Dr. M. L. Meena, AM:**

The captioned appeal has been filed by the assessee against the order of the Id. CIT(A) National Faceless Appeal Centre (NFAC), Delhi dated 08.01.2024 in respect of Assessment Year: 2011-12, challenging therein rejection of the appeal of the assessee on the ground of non-filing of

the return under section 249(4)(b) of the Income Tax Act 1961 although the assessee's income was below taxable limits and that confirmation of the addition of Rs 21,11,000/- under section 69 of the Income Tax Act without considering the submissions of the assessee appellant.

2. At the outset the Id. counsel for assessee has submitted that the learned CIT appeal was not justified in not admitting the appeal of the assessee as he has just rejected the appeal of the assessee by referring to the provisions of section 249(4)(b) of the act without discussing and calculating the quantum of the stipulated tax liability to be paid by the assessee. The learned counsel argued that where the assessee was not having taxable income, the provisions of income tax do not stipulate that how the advance tax liability has to be worked out. The AR contended that since, appellant has no taxable income during the assessment year under consideration and hence, she has no advance tax liability payable and accordingly, the provisions of section 249(4)(b) of the act not applicable in the present case of the assessee.

3. On the merits of the case, the AR submitted that during the financial year relevant to the assessment year under consideration, the mother of the assessee Alka Meena has received various death cum retirement

benefits of her husband Shri Jagdish Lal Meena in her account number 1586000200059802 on various dates and out of which she made time deposits in the name of the appellant (APB, Pgs \* 0.3 - 20) . The learned AR contended that the bank statement of Smt. Alka Meena is self-explanatory regarding the source of investment in FDR in the name of the appellant in Punjab National Bank by transfer entry (APB, Pgs. 1-2). He submitted that the CIT appeal did not properly consider the submissions of the appellant filed in response to the deficiency letter issued by him that assessee had no taxable income during the year under consideration and therefore she was not liable for filing return of income and to pay any advanced tax. He argued that the action of the CIT appeal is unjustified and arbitrary in rejecting the appeal of the assessee. The AR pleaded that the addition may be deleted.

4. Per contra, the Id. AR stands by the impugned order.

5. We have heard the rival contention, perused the material on record and the impugned order. Admittedly, the appellant has no taxable income during the year under consideration. In our view, when the appellant assessee has no taxable income, the provisions of the Income tax do not

require the appellant assessee to work out any advance tax liability hypothetically and make payment thereof as alleged by the department.

6. From the record, it is evident that the Id. CIT(A) has not appreciated the merits of the case and rejected the appeal of the assessee by referring the provisions of section 249(4)(b) of the Act without discussing a single word about the quantum of the stipulated tax liability, required to be paid by the appellant assessee is in violation of provisions of law. It is undisputed fact on record that the mother of the assessee has received various death-cum retirement benefits in her aforesaid bank account out of which she made FDRs in the name of the appellant (APB pgs. 3 to 20). The bank statement of the appellant assessee is self-explanatory regarding source of the investment in FDRs made in the Punjab National Bank by way of transfer entry (APB pg. 1 & 2). Thus, the decision of the Id. CIT(A) is taken in arbitrary manner and mechanical manner ignoring the facts on record is not justified. In our view, the decision of the Id. CIT(A) suffer with infirmity and perversity to the facts on record which deserves to be quashed.

7. In the above view, we accept the grievance of the appellant assessee as genuine and as such the addition of Rs.21,11,000/- made u/s 69 of the Income Tax Act, 1961 is deleted.

8. In the result, the appeal filed by the assessee is allowed.

*Order pronounced in the open court on 08 .04.2024.*

Sd/-

Sd/-

**(Sandeep Gosain)**  
**Judicial Member**

**(Dr. M. L. Meena)**  
**Accountant Member**

*\*GP/Sr.PS\**

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The Id. CIT
- (4) The Id. CIT(A)
- (5) The DR, I.T.A.T., Jaipur
- (6) Guard File

By Order,  
Asstt. Registrar

		Date	Initial	
1.	Draft dictated on			Sr.PS/PS
2.	Draft placed before author			Sr.PS/PS
3.	Draft proposed & placed before the Second Member			JM/AM
4.	Draft discussed/approved by Second Member			JM/AM
5.	Approved Draft comes to the Sr. P.S./P.S.			Sr.PS/PS
6.	Kept for pronouncement on			Sr.PS/PS
7.	File sent to the Bench Clerk			Sr.PS/PS
8.	Date on which file goes to the Head Clerk			
9.	Date on which file goes to the AR			
10.	Date of dispatch of Order			