

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

**BEFORE SHRI GS PANNU, VICE PRESIDENT  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No:- 297/Del/2024  
Assessment Year: 2018-19**

Ritu Gupta, Faridabad.	Vs.	ACIT, Intl Tax, Gurugram.
<b>PAN No: ACSPG1351N</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri D.C. Garg & Arihant Jain, CA  
**Revenue by** : Shri Vizay B. Vasanta, CIT( DR)

**Date of Hearing** : 25.04.2024

**Date of Pronouncement** : 13.06.2024

**ORDER**

**PER ANUBHAV SHARMA, JM**

This appeal is preferred by the Assessee against the order dated 27.03.2023 of ACIT, Gurgaon arising out of an appeal before it against the order dated 31.03.2022 passed u/s 148A(d) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the ITO, Ward- 2 (1), Faridabad.

2. Heard and perused the record.

2.1 Ld. AR has primarily argued on the factual and legal aspect of the ground no. 1 & 2 of appeal memo, that the additions made in the re-assessment proceedings u/s 147 read with section 144C(13) of the Act, 1961 are beyond the jurisdiction and scope of the reasons on the basis of which reopening notice under section 148 which was issued. Ld. DR has though relied the assessment order.

3. As we appreciate the facts it comes up that the case of the assessee, was reopened on information that the assessee sold immovable property for a consideration of Rs.95,00,000/-, made foreign remittances to the tune of Rs.94,00,000/- and invested in mutual funds to the tune of Rs. 5,81,136/- during FY 2017-18 relevant to AY 2018-19. As the assessee had not filed any return of income for Financial Year 2017-18 relevant to A.Y.2018-19, assessment proceedings u/s 147/148 of the Act, 1961 were initiated by passing order u/s 148A(d) of the Act and issuing a notice u/s 148 of the Act on 31.03.2022 after obtaining necessary approval of the Competent Authority u/s 151 of the Act.

4. During the assessment proceedings the AO had examined the issue arising out of bank account statement of NRO a/c 7301 with ICICI which revealed that sum of Rs. 12,00,000/- had been

received from Sh. Praveen Mehta. The assessee claimed that it was advance against sale of property during FY 2017-18. The assessee submitted that the plot was transferred in FY 2018-19. The assessee filed a confirmation from the alleged buyer. The assessee submitted certain documents from the builder as well regarding a plot V7-20, Block V in Parklands, Sector 76, Faridabad. The AO was not satisfied and concluded that the assessee has not submitted any documentary evidences which could show that sum of Rs. 12,00,000/- was received against sale consideration of a property. The assessee has not submitted any agreement to sale under which the alleged advance was received. The assessee has also not produced any sale deed through which the property was transferred. Confirmation filed by the assessee without any agreement to sale or sale deed is a self-serving document having no evidentiary value. There are no independent witnesses to the transaction. Mere submission of a confirmation without any corroborating evidences cannot be accepted on its face value unless the averments made in the self-serving documents filed by the assessee are substantiated by way of independent corroborative evidences. Further, contention of the assessee that property was transferred during FY 2018-19 is not supported by any documentary evidences. It is seen that the assessee has not filed any return of income for AY 2019-20 and the transaction has not been reported and tax on gains from the sale transaction have not suffered any tax. Thus concluded that for the purpose of section 69A of the Act explanation on sources

of credits in bank account amounting to Rs. 12,00,000/- is not satisfactory and accordingly made addition.

5. We have gone thoroughly across the notices with annexure, issued under clause (b) of section 148A of the Act, along with issues under consideration under this notice, as made available at page no. 6-10 of the PB. There is no doubt that the addition made has no connection with the issues for which notice was issued under clause (b) of section 148A. It is settled proposition of law that in re-assessment proceedings addition on any other issue cannot be made if no addition is made on primary grounds on which re-opening was done. In ITA No:- 1667/DEL/2021 vide order dated 07.02.2024 vide M/s **Vishram Sahakari Awas Samiti Limited, Vs. ITO, Ward-2(5), Noida**, a co-ordinate bench on which one of (the judicial member) was also in quorum has observed as follows :-

*“In the case of commissioner of Income Tax vs. Monarch Educational Society [2016] 387 ITR 416. The Hon’ble jurisdictional High Court expounded as follows:*

*“8. The issue urged by the Revenue stands covered in favour of the assessee by the decision of this court in **Ranbaxy Laboratories Ltd. v. CIT [2011] 336 ITR 136 ( Delhi)** which has been followed in **CIT v. Software Consultants [2012] 341 ITR 240 ( Delhi)**. In sum, if no addition is made on the basis of the reasons to believe recorded by the Assessing Officer for reopening the assessment under section*

*148 of the Act, resort cannot be had to Explanation 3 to section 147 of the Act to make an addition on any other issue not included in the reasons to believe for reopening the assessment. No substantial question of law arises. The appeal is dismissed.”*

6. Consequently we are inclined to hold that the addition made was beyond the jurisdiction invoked by issuance of notice under clause (b) of section 148A and same cannot be sustained. Ground no. 1 & 2 are allowed. **The appeal is allowed** and the impugned addition is deleted.

Order pronounced in the Open Court on 13.06.2024

**Sd/-**  
**(GS PANNU)**  
**VICE PRESIDENT**

**Sd/-**  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

Dated: 13/06/2024.

Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
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	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	