

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

BEFORE SHRI G.S. PANNU, VICE PRESIDENT
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER

ITA No. 3932/Del/2023
Asstt. Year : 2012-13

MS. SEEMA ARORA,
B-267, SHASTRI NAGAR,
MEERUT
U.P. – 250004

(PAN: ABMPA8033G)
(Appellant)

VS. ITO, WARD-2(3),
MEERUT
AAYAKAR BHAWAN,
BHANSALI GROUND,
DELHI ROAD,
MEERUT, U.P.-250001

(Respondent)

Appellant by : Shri P.S. Kashyap, Adv.
Respondent by : Shri Ram Dhan Meena, Sr. DR

Date of Hearing	20.06.2024
Date of Pronouncement	08.07.2024

ORDER

PER VIMAL KUMAR, JM

Assessee's appeal is against order of Ld. Commissioner of Income Tax (Appeals), (hereinafter Ld. CIT(A)), NFAC Delhi dated 31.10.2023 arising from order of the Income Tax Officer (hereinafter Ld. AO), Ward-2(3), Meerut dated 10.12.2019 under section 143(3)/147 of the

Income Tax Act, 1961 (hereinafter referred to as 'the Act') pertaining to assessment year 2012-13 on the following grounds:-

- “1. That on facts and in law re-opening of case under section 148 is totally unjustified and illegal. AO has no reason to believe for reopening the case. AO just relied on AIR information before reopening the case. Notice u/s. 148 is a invalid notice as statutory notice u/s. 143(2) was not issued and also there is no proper approval under section 151(2) of the Act. Therefore, notice under section 148 is a invalid notice and assessment order passed u/s 147 is void ab initio and have no relevance under Income Tax Act.
2. That on facts and in law cash deposited in bank amounting to Rs. 13,31,000/- treating as unexplained cash credit is totally wrong and unjustified. The vie taken by AO is totally wrong and addition made u/s. 68 for Rs. 13,31,000/- deserves to be deleted in full.
3. That on facts and in law sale proceeds of shares amounting to Rs. 2,53,262/- treating investment in shares is totally wrong and unjustified. Therefore additions of Rs. 2,53,262/- deserves to be deleted in full.
4. That the appellant craves leave to add, amend, alter or withdraw any of the ground of appeal on or before the date of hearing.”

2. Brief facts of case are that assessee filed original ITR for AY 2012-13 vide e-filing on 27.10.2013. The case of assessee was reopened u/s. 148 of the Act on 27.3.2019. In response to notice u/s. 148 of the Act assessee filed ITR on 18.10.2019 by way of e-filing. During the year under consideration assessee was drawing income from salary, income from business and income from other sources i.e. interest from saving bank account. The assessee was an employee of Army School and getting salary and filed ITR declaring total income of Rs. 2,55,340/-. In

same year assessee was also doing commodity trading on behalf of clients and for commodity trading assessee received cash from clients which was deposited in bank account. As per Ld. AO, the assessee had deposited cash amounting to Rs. 13,31,000/- in her saving bank account during FY 2011-12. In response to statutory notice issued u/s. 142(1) of the Act, assessee submitted that cash was received from clients and deposited in bank accounts. The assessee failed to submit copy of bank statement and list of clients from whom cash was received, hence, addition of Rs. 13,31,000/- was treated as unexplained cash deposit u/s. 68 of the Act and added to income of assessee. Ld. AO observed that further, assessee had sold shares for Rs. 2,53,262 during FY 2011-12 for which she failed to furnish the source of investment made in shares, hence, the AO made the addition of Rs. 2,53,262/- and assessed the income at Rs. 18,39,600/- u/s. 143(3)/147 of the Act vide order dated 10.12.2019.

3. Against the aforesaid action of the AO, assessee appealed before the Ld. CIT(A). Vide order dated 31.10.2023 the appeal of the assessee was dismissed on account of non-prosecution.

4. Being aggrieved the appellant/assessee preferred present appeal.

5. Learned Representative for the assessee submitted that Ld. CIT(A) erred in dismissing the appeal of the assessee exparte without appreciating the facts that the assessee was not aware of the hearing of the appeal. Ld. CIT(A) without considering the ground i.e. statutory

notice u/s. 143(2) of the Act was not issued to the assessee wrongly dismissed the appeal.

6. Learned Representative for the department submitted that the requisite notices were issued to the assessee, who failed to appear.

7. From perusal of the records and in light of the rival contentions, it is crystal clear that Ld. CIT(A) dismissed the appeal of the assessee due to non-appearance of assessee-appellant. In view of the factual matrix and in the interest of natural justice, we deem it fit and proper to remit back the issues in dispute to the file of the Ld. CIT(A) with the directions to decide the same on merits. We hold and direct accordingly.

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

Above decision was pronounced on 08.07.2024.

sd/-

(G.S. PANNU)
VICE PRESIDENT

sd/-

(VIMAL KUMAR)
JUDICIAL MEMBER

Dated: 08.07.2024.

SR BHATNAGAR

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR
6. Asstt. Registrar, ITAT, New Delhi