

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE SMC BENCH, INDORE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA No.274/Ind/2024
(Assessment Year: 2012-13)

Charan Jeet Kaur, Ward No.7, Umariya Obedullahganj, Raisen	Vs.	Income Tax Officer, Raisen
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: BNWPK2715C		
Assessee by	None	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	08.08.2024	
Date of Pronouncement	09.08.2024	

ORDER

This appeal by the assessee is directed against the order dated 29.12.2023 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centers,(NFAC), Delhi for A.Y. 2012-13 which is arising from the assessment order u/s 147 r.w.s. 143(3) of the Act dated 26.12.2019.

2. Assessee has raised raised following grounds of appeal:

1. That in the facts and circumstances of the case the very initiation of proceeding u/s 147 and issuance of notice u/s 148 are bad in law, invalid and therefore, the assessment is liable to be annulled.

2. That in the facts and circumstances of the case the initiation of proceeding u/s 147 /148, and completion of assessment order u/s 147 are bad in law as well as on facts and are liable to be annulled.

3. That in the facts and circumstances of the case the addition of Rs. 3,97,680/- made by the Learned Assessing Officer and upheld by the Learned CIT Appeals is bad in law and erroneous.

4. That in the facts and circumstances of the case the addition has been made without any cogent evidence merely on the basis of opinion of the Learned Assessing Officer which is bad in law and liable to be deleted.

5. The Appellant craves leave to add, amend, alter vary and or delete all or any of above grounds on or before the hearing of the appeal.

3. When the case was called for no one appeared on behalf of the assessee nor any application for adjournment has been filed. However due to smallness of the issue and the detailed submission of the assessee filed before the lower authorities available on record, I decide to adjudicate the appeal with the assistance of Ld. Departmental Representative.

4. Ground No.1 and 2 are raised challenging the validity of the issuance of the notice u/s 148 of the Act and carrying out the reassessment proceedings. I however notice that the assessee did not file regular return of income. There was specific information

about the deposit of cash of Rs.26,29,500/- in the savings bank account. Based on such information and after taking necessary approval from appropriate authority and within the time limit prescribed under the Act Ld. A.O issued valid notice u/s 148 of the Act and reassessment proceedings have been carried out. In my view there is no merit in the legal issue raised by the assessee in Ground No. 1 & 2 raised by the assessee and therefore both the grounds 1 & 2 are dismissed.

4.1 As far as remaining grounds are concerned though the amount mentioned in Ground No.3 at Rs. 3,97,680/- but on perusal of the assessment order and impugned order indicates that Ld. A.O made the addition of only Rs.2,44,000/- and therefore the correct amount in Ground No.3 should be Rs.2,44,000/- only.

5. Facts in brief relating to this issue is that the assessee is an individual. After being served with the notice u/s 148 of the Act she furnished the return declaring income of Rs.1,53,693/-. Assessee stated to be engaged in the business of plying trucks and income is computed u/s 44AE of the Act and therefore do not

require to maintain books of accounts. She claimed to have the bank account held with Central Bank of India appearing No.1925234250 where all the business receipts are deposited. However Ld. A.O noticed that there is another bank account bearing No.1925234249 wherein cash of Rs. 2,44,000/- deposited on 20.12.2011. The said sum of Rs.2,44,000/- for want of proper explanation has been added in the hands of the assessee. Then the matter carried before Ld. CIT(A). It was submitted that she does not own the bank account bearing No. 1925234249 and also no show cause notice was issued before adding the alleged sum in the hands of the assessee. However assessee failed to succeed before Ld. CIT(A) because based on the information received from the bank it was found that bank account No. 1925234249 is in the name of the assessee only and thus the alleged sum was not treated as business proceeds.

6. Aggrieved assessee is now in appeal before this Tribunal. In the statement of facts it is stated by the assessee that the deposits in the bank are from business proceeds only and the assessee is liable to tax only on the presumptive taxation scheme u/s

44AE/44AD of the Act. It is also submitted that the impugned addition has been made without any show cause notice to the assessee which is a clear violation of principle of natural justice.

7. On the other hand Ld. Departmental Representative vehemently argued supporting the orders of lower authorities.

8. I have heard Ld. Departmental Representative and perused the records placed before me. Assessee is dissatisfied with the finding of Ld. CIT(A) confirming the addition of Rs.2,44,000/- for the alleged cash deposit in the bank account No. 1925234249 held with Central Bank of India. From the assessment order I note that Ld. A.O has accepted the assessee's contention of being engaged in the business of transportation and plying of truck and she is carrying out this activity along with her husband who is also offering the income from truck plying in his return of income. The major proceeds were deposited in Account No. 1925234250 which the revenue authority have accepted and no addition have been made. It is only with regard to another bank account No. 1925234249 at Central Bank of India which on one hand assessee is not owning

this bank account and on the other hand revenue authorities have referred to the letter of the bank stating that it is in the name of the assessee and the cash deposit in the said bank account is Rs.2,44000/-. Considering the smallness of amount and also that the same relates to Assessment Year 2012-13 it would be totally impractical to restore this issue for re-adjudication/re-verification to the lower authorities as almost 12 years have passed and proper information could hardly be available, therefore in order to end the litigation and being fair to both the parties, I treat the alleged deposit as business proceeds and consider that since both the assessee and her husband are in the truck transportation business having regular proceeds, estimate the income at Rs.19,520/- on the alleged deposit and accordingly delete the impugned addition to the extent of Rs.2,24,480/- and partly allow Ground No.3 and 4 raised by the assessee. Ground No.5 is general in nature which needs no adjudication.

9. In the result appeal of the assessee is partly allowed.

Order pronounced in the open court on 09.08.2024.

Sd/-

(MANISH BORAD)
Accountant Member

Indore, 09.08.2024

Dev/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore