

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 248/DEL/2024
Assessment Year: 2011-12

Meena Kataria, H. no. 132, Sector-14, Gurgaon, Haryana-122018.	<u>Vs</u>	Income-tax Officer, Gurgaon.
PAN- AOYPK 6649 F		
APPELLANT		RESPONDENT
Appellant by	Shri Himmat Yadav, Adv.	
Respondent by	Shri Sanjay Kumar, Sr. DR	
Date of hearing	12.08.2024	
Date of pronouncement	22.08.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the National Faceless Appeal Centre (NFAC), Delhi, dated 31.10.2023, pertaining to the assessment year 2011-12. The assessee has raised following grounds of appeal:

“1. The learned assessing officer has erred in law and facts and circumstances of the case in making additions of Rs. 18,01,500/-on account of cash deposited in his account.

2. The learned assessing officer has erred in law and facts and circumstances of the case in making additions of Rs.10704/-on account of bank interest on saving deposited in his account.

3. That without prejudice, the learned Assessing officer has erred in law and facts and circumstances of the case in not giving any opportunity of being heard to the assessee.

4. Assessee is not agreeing with computation and addition made by the Ld. Assessing officer.

5. That the appellant craves the right to amend, append delete or add any or all grounds of appeal.”

2. Facts, in brief, are that for A.Y. 2011-12 the case of the assessee was reopened u/s 147 of the Income-tax Act, 1961 (the “Act”) on the ground that during F.Y. 2010-11 relevant to A.Y. 2011-12 the assessee had made cash deposits of Rs. 18,01,500/- in her bank account and earned bank interest of Rs. 10,704/- Assessing Officer, however, no return was filed. According to AO, the assessee did not respond to the statutory notices issued to file return and explain the source of cash deposits. The AO completed the assessment u/s 144 read with section 147 of the Act at Rs. 18,12,204/- by adding Rs. 18,01,500/- as unexplained income and Rs. 10,704/- as bank interest. Aggrieved against this the assessee preferred appeal before learned CIT(A), who also dismissed the appeal and affirmed the action of Assessing Officer. Aggrieved against it the assessee is in appeal before this Tribunal.

3. Learned counsel for the assessee submitted that assessee's husband had received token money of Rs. 18,00,000/- in lieu of sale of agricultural land. This amount was deposited in assessee's account. However, the deal could not be materialized and the token money was returned back to the buyer. Learned counsel submitted that, therefore, the assessee was not required to file her return of income for the relevant assessment year. It is also submitted that no physical notice was served on the assessee and without providing adequate opportunity to explain her case the AO made the impugned assessment u/s 144/147 of the Act. He submitted that in appeal the learned CIT(A) dismissed the appeal in limine, in absence of assessee. Learned counsel prayed that orders of authorities below may be set aside and the matter may be restored to the file of Assessing Officer for assessment de novo after verifying the veracity of assessee's claim and affording reasonable opportunity of being heard to the assessee.

4. On the other hand, learned DR supported the orders of authorities below.

5. I have heard rival submissions and perused the material available on record. The stand of assessee is that the source of cash deposit in her bank account was the token money received by her husband for sale of agricultural land and as the deal of sale could not be materialized, the token money was later on returned back. Considering the totality of facts of the present case and to be fair to both the parties and in order to sub serve the interests of natural justice, I hereby set aside the

orders of authorities below and restore the matter to the file of Assessing Officer for assessment de novo, after verifying the veracity of assessee's stand and affording adequate opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

6. Assessee's appeal is allowed for statistical purposes.

Order pronounced in open court on 22nd August 2024.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI