

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**BEFORE PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER &
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No.5295/Del/2019
(Assessment Year : 2015-16)

New Life Fellowship Trust S-358, GF Uppal's South End Sohna Road Gurugram – 122018 PAN No. AAATN 9270 B (APPELLANT)	Vs.	ITO(Exemption) Faridabad (RESPONDENT)
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Assessee by	Shri Alok Kumar Gupta, Adv.
Revenue by	Shri Pramod Kumar, Sr. D.R.

Date of hearing:	15.10.2024
Date of Pronouncement:	15.10.2024

ORDER

PER PRADIP KUMAR KEDIA, AM :

The captioned appeal has been filed at the instance of the assessee against the First Appellate Order passed by the Commissioner of Income Tax (Appeals)-Faridabad ('CIT(A)' in short) dated 31.03.2019 arising from the assessment order dated 19.06.2017 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 ('the Act') concerning A.Y. 2015-16 in question.

2. As per the grounds of appeal, the assessee has challenged the action of the CIT(A) invoking the provision of section 251(1)(a) of the Act whereby enhancement power conferred with the CIT(A) has been invoked to make

enhancement on account of certain alleged anonymous donations received by the Assessee Trust.

3. When the matter was called for hearing, the learned Counsel for the assessee submitted at the outset that the assessee has been granted registration under section 12AA of the Act and therefore, entitled the claim exemption under section 11 and 12 of the Act as per law. The return filed by the assessee for A.Y. 2015-16 was subjected to assessment under section 143(3) of the Act. The learned Counsel, at this stage, adverted to notice dated 28.07.2016 issued under section 143(2) of the Act and submitted that the return filed by the assessee was subjected to “limited scrutiny” assessment. The issue identified for scrutiny reads as “*transaction of trust with specified person*”. The Assessing Officer while framing the assessment made an addition of Rs.12,18,000/- under section 13(3) of the Act in relation to payments made to specified person.

4. Aggrieved by the additions, the assessee preferred appeal before the CIT(A).

5. The CIT(A) however found merit in the plea of the assessee towards *bonafides* of payments made to specified person and granted complete relief on the subject matter of dispute raised before the CIT(A). However, the CIT(A) while granting relief on the issue raised, simultaneously observed that certain receipts by way of alleged anonymous donations have been received by the assessee trust during the year as discussed in para 7 of the First Appellate order. The CIT(A) examined the issue of the anonymous donation and resorted to enhancement on that point to the extent of Rs.75,15,734/- by invoking the enhancement power vested under section 251(1)(a) read with Explanation thereto. The learned Counsel

in this backdrop, contends that in the instant case where the case was selected for limited scrutiny and was not converted into full-fledged scrutiny at the assessment stage, the enhancement power of the CIT(A) are circumscribe by law. The CIT(A) cannot travel into issues for which the case was selected for scrutiny and cannot discover a new source of income outside the scope of section 143(2) of the Act. The learned Counsel contends that the CIT(A) cannot do something which the Assessing Officer himself was not entitled too. The learned Counsel thus submitted that suitable relief is called for in the matter.

6. The learned CIT-D.R. on the other hand justified the action of the CIT(A) contended that power vested under section 251(1)(a) r.w. Explanation thereto are extremely wide and any escaped income which came to the notice of the CIT(A) in the course of First Appellate proceedings are subject matter of enhancement as provided by the Explanation to Section 251(1)(a) of the Act. The learned CIT-D.R. pointed out that question of law is involved in the present case as to whether any embargo is placed on the enhancement power of the CIT(A) in a situation where limited mandate has been given to the Assessing Officer for the purposes of carrying out regular assessment. The learned CIT-D.R. pointed out that the power of the CIT(A) are both coterminous with the power of the AO as well as the wide appellate power including power of enhancement has provided by the statute. The learned CIT-DR thus submitted that the statutory powers of enhancement available to CIT(A) in appropriate circumstances cannot be curtailed under the circumstances.

7. We have carefully considered the rival submissions and examined the dispute objectively in the light of rival submissions. The limited question that

arises for consideration is whether the CIT(A) in exercise of enhancement power conferred by the Explanation to Section 251(1)(a) of the Act is entitled to examine source of income which are outside the mandate of the AO in terms of limited scrutiny notice issued under section 143(2) of the Act. The scheme of limited scrutiny formulated by the income tax department seeks to make assessment on the point red-flagged in the scrutiny notice issued under section 143(2) of the Act. The Assessing Officer is empowered to examine only those issues which have been identified for the purposes of limited scrutiny assessment. This being so, the Assessing Officer under the limited scrutiny mandate cannot travel beyond the points for which the case was selected for scrutiny. The powers of the Assessing Officer are thus clearly circumscribed by law in the case of limited scrutiny cases. To pierce the veil of limited scrutiny, the Assessing Officer is required to obtain necessary consent from the superior authorities as provided. As a corollary, as long as the assessment has been carried out under the limited mandate and where the Assessing Officer is prohibited in law to extend the enquiry on the issues unconnected to the points red-flagged in the scrutiny notice, in our considered view the powers vested with the CIT(A) requires to be evaluated in tandem with the power of AO . The provision of the Act cannot read in a manner that while the Assessing Officer has been granted limited mandate, the unconnected issues can be raked up by the CIT(A) by resorting to section 251(1)(a) of the Act. Such course of enhancement is permissible only where the Assessing Officer is vested with jurisdiction to examine all the points and source of income while framing the assessment. The recourse available to the Revenue lies elsewhere such as reopening of the assessment etc. However, the power of enhancement cannot be read in a manner which will entitle the CIT(A) to assess the new source of income for which authority was not available to the Assessing Officer whose order is under

challenge. As held by the *Hon'ble Delhi High Court in CIT vs. Union Tyres' 240 ITR 556 (Del.)* and affirmed by larger bench in *CIT vs. Sardari Lal and Co. (2001) 251 ITR 864 (Del.)*, it is not open to CIT(A) to introduce in assessment, a new source of income and assessment has to be confined to those items of income which were subject matter of original assessment.

8. We thus see potency in the plea raised on behalf of the assessee for setting aside the enhancement of assessed income carried out by the CIT(A). The order of the CIT(A) is set aside on the point in issue.

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

Order was dictated and pronounced in the open court on 15th Oct, 2024.

Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Date:- 15.10.2024

*Priti Yadav, Sr. PS**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI