

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

**BEFORE SHRI VIMAL KUMAR, JUDICIAL MEMBER AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

ITA No. 2490/Del/2024
(Assessment Year : 2013-14)

Anju Basundhra C/o. Deepal Sehgal and Co., Chartered Accountants Triakuta Nagar, Jammu and Kashmir – 180 020 PAN : AULPB 3709 J (Appellant)	Vs.	Circle Int. Tax 1(1)(2) Minto Road, New Delhi – 110 002 (Respondent)
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Assessee by	Shri Rohit Kapoor, A.R.
Respondent by	Shri Vijay B. Vasanta, CIT-D.R.

Date of Hearing	26.11.2024
Date of Pronouncement	20.12.2024

O R D E R

PER VIMAL KUMAR, JM:

1. The appeal filed by assessee challenging the final Assessment order under section 147 read with section 144 of the Income Tax Act, 1961 [hereinafter referred to as “the Act”] dated 22.03.2024 of the Asst. Commissioner of Income Tax, Circle Int. Tax 1(1)(2) [hereinafter referred as (‘Ld. AO’)] in pursuance to the direction of learned Dispute Resolution Panel-1, New Delhi under section 144C(5) of the Act for the Assessment Year 2013-14.

2. Brief facts of the case are that on 25.06.2021 notice under section 148 of the Act was issued to the assessee for not disclosing true facts of her income in ITR. The reasons were recorded mentioned as the assessee sold two properties on 30.12.2012 at Katra for a sale consideration of Rs.62,06,000/- and Rs.24,21,000/- respectively. The tax liability thereon remained unverified and unexplained and Rs.86,27,000/- had escaped assessment within the meaning of section 147 of the Act. The assessee in response to notice on 31.10.2021 clarified that the assessee share in the property was 1/6th, amounting to Rs.14,39,500/-, against a total sale consideration of Rs.86,27,000/- in the reasons recorded vide reply dated 31.10.2021 vide acknowledgement number 768563991311021. The copies of two sale deeds submitted before the AO and DRP clearly mentioned assessee's share as 16.69% or 1/6th. The remaining consideration was attributed to other co-owner, namely Ashok Puri (brother), Anil Puri (brother), and Anuja Puri (sister). Copies of sale deeds were enclosed at pages 21-29 of paper book. Learned AO in compliance with judgment of the Hon'ble Supreme Court in the case of *Union of India vs. Ashish Aggarwal* and pursuant to *CBDT Instruction No.1 dated 11.05.2022*, converted the notice under section 148 of the Act into a deemed show-cause notice under Clause (b) of Section 148A of the Act by issuing fresh notice dated 01.06.2022. Assessee submitted that notice issued under section 148 of the Act on 28.07.2022 was legally unsustainable. Learned DRP rejected the

objection and issued directions dated 26.02.2024. Learned AO passed order dated 22.03.2024.

3. Being aggrieved, appellant/assessee preferred present appeal.

4. Learned Authorized Representative for appellant/assessee submitted that notice under section 148 of the Act is barred by period of limitation. Order of learned Assessing Officer is illegal. No notice under section 143(2) of the Act was issued. Assessment order under section 147 read with section 144 of the Act is *void ab initio* and illegal as notice under section 148 was issued without validity. No reasonable opportunity was afforded by learned AO before passing final assessment order. The learned AO grossly erred in making addition of Rs.14,39,500/-.

5. Learned Departmental Representative of the Department of Revenue submitted that assessee had sold properties worth Rs.86,27,000/- and failed to explain the source of investment for proper adjudication of Long Term Capital Gain (LTCG).

6. From examination of record in light of aforesaid rival contentions, it is crystal clear that as per notice dated 25.06.2021 under section 148 of the Act, assessee sold two properties for sale consideration of Rs.86,27,000/- (Rs. 62,06,000 + 24,21,000). Assessee in reply dated 31.10.2021 claimed that assessee had 1/6th

share in the property amounting to Rs.14,39,500/- against the total sale consideration of Rs.86,27,000/-. Copies of sale deeds dated 30.12.2012 clearly mentioned assessee's shares as 1/6th i.e. 16.69%. The learned AO in compliance of judgment of Hon'ble Supreme Court of Union of India vs. Ashish Aggarwal and CBDT Instruction No.1 dated 11.05.2022 converted notice under section 148 into a deemed show-cause notice under Clause (B) of Section 148A of the Act and issued fresh notice dated 01.06.2022. Notice dated 28.07.2022 under section 148 of the Act for reopening of A.Y. 2013-14 based on income below Rs.50,00,000/- is contrary to law. Therefore, the directions of DRP dated 26.02.2024 and assessment order dated 22.03.2024 are illegal and are set aside.

7. In the result, appeal filed by the assessee is allowed.

Order pronounced on this day 20th December, 2024

Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER

Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

Dated: 20.12.2024

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI