

**IN THE INCOME TAX APPELLATE TRIBUNAL,
AGRA BENCH, "SMC" AGRA**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**
(Through Video Conferencing)

ITA Nos. 2, 3, 4 & 5/Agr/2024
Assessment Years: 2010-11 & 2011-12

Smt. Meera Devi, 6/31, Yojna-1, Avas Vikas Parishad, Auraiya	Vs.	Assessing Officer, Ward-1(1)(4), Auraiya at Etawah
PAN :AQPPK9225J		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. Shailendra Srivastava, Sr. DR

Date of hearing	05.02.2025
Date of pronouncement	05.02.2025

ORDER

PER SATBEER SINGH GODARA, JM

The assessee has filed four appeals ITA Nos. 2, 3, 4 & 5/Agr/2024 pertaining to assessment years 2010-11 and 2011-12. ITA Nos. 2 & 3/Agr/2024 for AY 2010-11 and ITA Nos. 4 & 5/Agr/2024 for AY 2011-12 are directed against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's orders, each dated 29.12.2022 passed in DIN and order nos. ITBA/NFAC/S/250/2022-

23/1048319523(1); ITBA/NFAC/S/250/2022-23/1048321433(1); ITBA/NFAC/S/250/2022-23/1048320025(1) and ITBA/NFAC/S/250/2022-23/1048321571(1), involving proceedings under section 147 r.w.s. 143(3) and 271(1)(c) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), respectively.

2. Cases called twice. None appears at the assessee's behest. She is accordingly proceeded ex-parte.

3. The delay of 311 days in filing all the assessee's instant appeals is condoned in light of larger interest of justice as well as in light of Collector, Land & Acquisition vs. Mst. Katiji & Others (1987) 167 ITR 471 (SC).

3. It emerges during the course of hearing with the able assistance coming from Revenue side that the assessee has filed her instant twin quantum and penalty appeals each i.e. ITA Nos. 2 & 3/Agr/2024 for AY 2010-11 and ITA Nos. 4 & 5/Agr/2024 for AY 2011-12, respectively against the learned lower authorities' respective findings firstly section 148/147 proceedings claiming unexplained investments addition etc. and levied section 271(1)(c) with corresponding penalties; respectively.

4. The Revenue side is indeed very fair at the outset in making it clear that the assessee's instant four appeals involve identical set of facts. That being the case, we notice from a perusal of the assessee "lead" appeal ITA No.2/Agr/2024 that the learned Assessing Officers had recorded his reopening reasons that the assessee's taxable income (on proximation basis) had escaped assessment. We are of the considered view in this factual backdrop that such a casual reopening reasons by the learned Assessing Officer are hardly sustainable in law as the same have to be recorded based on tangible material pinpointing escapement of all specific taxable income from being assessed as held in CIT Vs. Kelvinator of India, 2010 (2) SCC 723.

5. We further quote Hindustan Lever Limited Vs. R.B. Wadkar (2004) 268 ITR 332 (Bom) that the reopening reason in such an instance have to be read on standalone basis without any scope of addition, deletion or substitution or improvement therein; as the case may be. This indeed coupled with the fact that learned lower authorities appear to have got assessee's alleged investment estimated for the purpose of making corresponding quantum addition, and therefore, we are of the considered view that such a

course of action is not sustainable in law in the foregoing terms. The impugned twin quantum assessments before us in both these assessment years framed in assessee's cases are quashed therefore. The assessee's section 271(1)(c) consequential penalty appeals ITA Nos. 4 & 5/Agr/2024 also succeeds in very terms.

6. To sum up, these assessee's four appeals ITA Nos. 2, 3, 4 and 5/Agr/2024 are allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 5th February, 2025

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 5th February, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, Agra