

**IN THE INCOME TAX APPELLATE TRIBUNAL “K (SMC)” BENCH
MUMBAI**

**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No. 111/MUM/2025
Assessment Year: 2018-19**

Neha Haresh Bohra 52/52A Nanubhai Desai Road, Islampura Street, Mumbai – 400004 Maharashtra (PAN: AADPK6695C)	Vs.	Income Tax Officer, Ward- 19(2)(4), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Shri Vimal Sethiya, CA
Revenue : Shri. Abhishek Tharwal, Sr. DR

Date of Hearing : 07.05.2025
Date of Pronouncement : 18.07.2025

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by assessee is against the order of Ld. CIT(A), National Faceless Appeal Centre (NFAC), Delhi, vide order no. ITBA/NFAC/S/250/2024-25/1070278605(1), dated 12.11.2024 passed against the assessment order by National e-Assessment Centre, Delhi, u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 08.03.2021 for Assessment Year 2018-19.

2. The only issue raised in this appeal by the assessee is in respect of addition of Rs.6,01,342/- by treating it as unexplained expenditure u/s.69C of the Act which according to the assessee is on account of inadvertent error made in punching the data in the return form while submitting the return.

3. Brief facts of the case are that assessee is a Chartered Accountant by profession and her source of income includes salary as well as receipts from profession and interest income. Assessee filed her return of income on 27.08.2018 reporting total income at Rs.9,10,560/-. From the computation of total income placed at page 4 of the paper book, it is noted that income from salaries is Rs.5,97,500/-, profits and gains of business and profession is at Rs.4,25,491/-. This amount includes Rs.2,75,000/- towards non specified profession without books of accounts and Rs.1,50,491/- towards speculation business profits. Income from other sources including interest on fixed deposits of Rs.26,814/- and bank interest of Rs.20,759/- totals up to Rs.45,573/-. Thus, assessee reported gross total income of Rs.10,70,564/- from which deduction under Chapter VIA of Rs.1,60,000/- were claimed to arrive at total income of Rs.9,10,564/-.

3.1. For the purpose of disclosure in respect of speculation business income for which an amount of Rs.1,50,491/- was included under the head 'Profits and gains of business and profession', a figure of Rs.7,51,883/- was shown as turn over and gross profit (for item 53 of Part A – P & L of ITR). At this juncture, it is important to note that the difference of the figures, i.e., Rs.7,51,883/- and Rs.1,50,491/- comes to Rs.6,01,392/- which is the amount held by the ld. Assessing Officer as unexplained expenditure for making an addition u/s.69C.

3.2. Claim of the assessee is that she had earned speculation business profit of Rs.1,50,491/- from purchase and sales of shares which was duly offered to tax. However, at the time of filing of return, inadvertently instead of filling in the figure of Rs.1,50,491/- as net profit, figure of Rs.7,51,883/- as gross profit and expenses as Rs.6,01,342/- were filled having the same effect of net profit coming to Rs.1,50,491/-. On account of this inadvertent mistake of filling in this data by the person

who filed the return, ld. Assessing Officer took an adverse view on the amount of Rs.6,01,342/- which was shown in the return form in Column No. 53(i)(c) towards expenses, by treating it as unexplained expenditure.

3.3. Assessee furnished all the relevant documentary evidences including contract notes for purchase and sales of the shares on which speculation business profit of Rs.1,50,491/- was earned by her. Assessee also placed on record copy of ledger from the broker, Vinit Enterprises to demonstrate the transaction undertaken resulting into net profit of Rs.1,50,491/-. The said ledger is extracted below for ready reference:

VINIT ENTERPRISES							PAGE: 1
LEDGERS FROM 01-04-2017 TO 31-03-2018							DATE: 01-08-2017
DATE	DOC NARRATION	BILL NO.	CHEQUE NO.	DEBIT AMT.	CREDIT AMT.	BALANCE AMT	
A/C CODE & NAME :- RD5001 NEHA HARESH BOHRA							
BALANCE B/F ----->				0.00			
22-06-2017	SH TO BILL ROLL.(N)-118	N/118/0011			73,757.00	73,757.00 CR	
20-07-2017	SH TO BILL ROLL.(N)-137	N/137/0006			76,734.00	1,50,491.00 CR	
BALANCE C/F --->				1,50,491.00			
TOTALS				1,50,491.00	1,50,491.00		

3.4. To substantiate the entries of the said ledger statement, assessee also corroborated these entries by referring to contract notes placed in the paper book from page 12 to 19. Copies of bank statements are also placed on record to demonstrate transaction routed through banking channel.

3.5. Assessee was asked to furnish the copy of return form, uploaded on the Departmental portal, which is also placed in the paper book at page 59 to 105. From the perusal of the return form filed in Form No. ITR-3 vide Acknowledge No.500491070250924, it is perused from the section "*Part A - P&L-Profit and Loss Account for the financial year 2017-18 (fill items 1 to 52 in a case where regular books of accounts are obtained, otherwise fill item 53)*" that assessee has furnished the details in segment "No Account Case" at Sr.No.53. In this Row No. 53(i)(a), assessee has reported Rs.7,51,883/-. In Row No. 53(i)(c) expenses have been shown as Rs.6,01,342/- with net profit in 53(i)(d) of Rs.1,50,491/. This is reported under the sub head of "for assessee carrying out business".

3.6. For the sub-head in (ii) "for assessee carrying on profession", assessee has reported net profit of Rs.2,75,000/-. Thus, total income reported under the head "Profits and gains of business or profession" is at Rs.4,25,491/- (Rs.1,50,491/- + Rs.2,75,000/-). It was thus, submitted that inadvertently instead of only reporting the net profit of Rs.1,50,491/-, for the reasons best known to the person who filled the data, the figures of Rs.7,51,883/- and of Rs.6,01,342/- were reported under the headings "gross receipts" and "expenses", respectively. The net result and effect on the total income remains the same but such filling of data has led to an adversity on the assessee since the Id. Assessing Officer took the expense figure as unexplained to make an addition u/s.69C.

4. In the given set of facts corroborated by all the documentary evidences as discussed above, we find that addition has been made merely on the basis of certain data filled in inadvertently by the person filing the return of the assessee. The component of income earned by

the assessee in respect of purchase and sale of shares has been duly reported and offered to tax in the return filed by her under the head “speculation of business profit” which is undisputed, amounting to Rs.1,50,491/-. Reporting of this income has been done differently in the return form though the net effect remains the same. The income from speculation business profits of Rs.1,50,491/- has been accepted by Id. Assessing Officer.

4.1. We note that there is no prejudice to the interest of revenue in respect of the speculation business profit reported by the assessee except that Id. Assessing Officer resorted to taking an adverse view in respect of data filled in against the head “expense”, creating a cause for the assessee to come before the Tribunal. Assessee has at all stages adequately demonstrated and explained the error committed backed by all the corroborative documentary evidences. However, authorities below adopted a pedantic approach even though there is no prejudice to the interest of revenue. The approach adopted by Id. Assessing Officer is perverse in complete disregard to the submissions made for the error committed by filing the return which has been perpetuated by Id. CIT(A) by not considering the explanations and documents furnished by the assessee.

4.2. In the given situation it is most appropriate to refer to the circulated issued by the Central Board of Direct Taxes (CBDT) vide Circular No.14 (XL-35), dated 11.04.1955. The said circular puts the onus on the Income-tax authorities to draw the attention of assesseees to any refunds or reliefs to which they appear to be clearly entitled but which they have omitted to claim for some reason or other. The relevant portion of the said circular is as follows:

"Officers of the Department must not take advantage of ignorance of an assessee as to his rights. It is one of their duties to assist a taxpayer in every reasonable way, particularly in the matter of claiming and securing reliefs and in this regard

the Officers should take the initiative in guiding a taxpayer where proceedings or other particulars before them indicate that some refund or relief is due to him.... Although, therefore, the responsibility for claiming refunds and reliefs rests with assesseees on whom it is imposed by law, officers should :-

(a) draw their attention to any refunds or reliefs to which they appear to be clearly entitled but which they have omitted to claim for some reason or other;

(b) freely advise them when approached by them as to their rights and liabilities and as to the procedure to be adopted for claiming refunds and reliefs."

5. Considering the overall facts and circumstances of the case, explanations alongwith documentary evidences placed on record and the CBDT circular, we delete the addition of Rs.6,01,342/- treated by the ld. Assessing Officer as unexplained expenditure u/s.69C. Accordingly, grounds raised by the assessee are allowed.

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

Order is pronounced in the open court on 18 July, 2025

Sd/-
(Pawan Singh)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 18 July, 2025

MP, Sr.P.S.

Copy to :

- 1 The Appellant
- 2 The Respondent
- 3 DR, ITAT, Mumbai
- 4 Guard File
- 5 CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai