

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

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 1147/DEL/2021
[Assessment Year: 2011-12]

Radhika Chopra, J-369, New Rajinder Nagar, New Delhi-110060 PAN- ADDPC4554F	<u>Vs</u>	Income-tax Officer, Ward-50(3), New Delhi.
APPELLANT		RESPONDENT
Appellant by	Shri Maniv Goel, CA	
Respondent by	Sh. Om Prakash, Sr. DR	
Date of hearing	23.03.2022	
Date of pronouncement	23.03.2022	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 28.07.2021, pertaining to the assessment year 2011-12. The assessee has raised following grounds of appeal:

- “1. On the facts and circumstances of the case, the order passed by the Ld. CIT (A) is bad in law and against the principles of natural justice.*
- 2. That the Ld. CIT (A) has erred by confirming the addition of Rs.*

6,95,988/- without appreciating the facts of the case, provisions of law and submissions of the appellant.

3. That the Id. CIT (A) has erred by stating that the income of Rs. 1,95,988/- as reflected in Form 26AS whereas no such income is reflected in Form neither 26AS nor it was credited to the books of account of the assessee during the year.

4. That the Id. CIT (A) has erred by completely ignoring the ground that lastly the case was fixed for 13,12.2018 but the assessment order was passed on 12/12/2018 which is unjustified and bad in law.

5. That the Id. CIT (A) has erred by stating that during the course of assessment proceedings the assessee had never asked for the copy of reasons recorded in writing u/s147 for reopening of the case.

6. That the Id. CIT (A) has erred by rejecting the ground that on the basis of information available on record and report of Directorate of investigation (income tax), without any further verification and examination by exercising powers u/s 131 or 133(6) of the Income tax act, 1961 before reopening of the case and ignoring the case laws cited by the assessee.

7. That the Id. CIT (A) has erred by rejecting the ground that no notice u/s 143(2) of the Income tax act, 1961 was issued after the assessee filed the return on 30/10/2018 in response to notice u/s 148 of The Income Tax act, 1961 which is mandatory requirement under Income Tax Act, 1961.

8. That the Id. CIT(A) has erred by stating that no evidences regarding the source of investment and interest income were furnished either before the Assessing officer or in the course of the present e- appellate proceedings.

9. That the Id, CIT(A) has erred by stating that the submission of the assessee "that since six years have elapsed she was not required to keep the books of accounts" is irrelevant.

10. That the Id. CIT(A) has erred by citing so many case laws without affording an opportunity to the assessee to cross them.

11. That the Id. CIT (A) has erred by completely ignoring the assessee's reply submitted on 08.02.2021 through e-filing website.

12. *That the Id. CIT (A) has erred by completely ignoring the ground that whether assessment order is passed u/s 143(3)/147 or 144/147 of The Income tax act, 1961 as on the assessment order section 144/147 is written and on the demand notice section 143(3)/147 is written.*

13. *That the Ld. CIT(A) has erred by passing the appellate order on 28.07.2021 without proving an opportunity to the assessee as there was a gap of more than five months 20 days between the date of last hearing i.e. 08.02.2021 and the date of order i.e. 28/07/2021 which is not justified and bad in law.*

14. *In view of the facts and circumstances of the case the appellant prays that the additions may kindly be deleted or any other order which this hon'ble court deems fit and proper be passed.*

15. *That the appellant craves leave to add, modify or delete any of the above grounds of appeal before or at any time of hearing of the appeal.”*

2. The facts, in brief, are that the Assessing Officer noticed that as per the information available on record the assessee invested a sum of Rs. 5,00,000/- in Aviva Life Insurance India Ltd. on 08.02.2011. It was reported to the Assessing Officer that the money was deposited in the bank account of Shri S. sumit Anand and subsequently DD was made towards policy in the name of the assessee. It was further noticed that as per 26AS details, total interest of Rs. 1,95,988/- had been credited. However, on verification of ITR it was found that assessee had furnished income tax return for the A.Y. 2011-12 at an income of Rs. 2,95,870/-. Therefore, the case was reopened and the assessment was framed u/s 144 read with section 147 of the Act vide order dated 12.12.2018. The Assessing Officer assessed the income at Rs. 9,91,858/-. Aggrieved against this the assessee preferred appeal

before the learned CIT(Appeals), who also dismissed the appeal of the assessee. Now, the assessee is in appeal before this Tribunal.

3. At the outset learned counsel for the assessee submitted that the Assessing officer failed to supply reasons recorded for reopening of the assessment to the assessee. Learned counsel further submitted that the impugned assessment was framed at the back of the assessee, disregarding the principles of natural justice. Learned counsel submitted that the assessee was not given adequate opportunity to effectively represent her case by the Assessing Authority. Therefore, the learned counsel prayed that impugned order may be set aside.

4. On the contrary, learned DR opposed the submissions and supported the orders of the authorities below. However, he fairly submitted that the Revenue would have no objection if the matter is restored to the Assessing officer for decision afresh.

5. I have heard rival submissions and perused the material available on record. From the record it is seen that the Assessing Officer has not recorded in the assessment order that the reasons for reopening were supplied to the assessee. Since the reasons for reopening goes to the root of the case and the assessee has legal right to make objection against reopening of the assessment, this being a valuable legal right of the assessee, the statutory authority cannot ignore the same. Therefore, considering the facts and circumstances of the present case, I hereby set

aside the impugned assessment order and restore the assessment to the file of the Assessing Officer to frame the assessment afresh after providing the reasons recorded for reopening of the assessment and disposing of the objection, if any. Needless to say, the Assessing Officer would provide adequate opportunity of hearing to the assessee. Grounds raised in this appeal are allowed for statistical purposes.

6. Appeal of the assessee is allowed for statistical purposes.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Dated: 23/03/2022.

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI