

**IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "SMC": NEW DELHI]****BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER,
AS S.M.C.**ITA. No. 5529/Del/2018
(Assessment Year: 2010-11)

Smt. Asha Saini, 667, Laddawala, Muzaffar Nagar – 251 002. PAN: ASNPR6627D	Vs.	Income Tax Officer, Ward : 1 (1), Muzaffar Nagar.
(Appellant)		(Respondent)

Assessee by :	Shri Gurmeet Singh Grewal, Advocate;
Department by :	Shri Om Prakash, Sr.D. R;
Date of Hearing :	05/05/2022
Date of pronouncement :	11/05/2022

ORDER**PER CHANDRA MOHAN GARG, J. M. :**

The aforesaid appeal has been filed by the assessee against the impugned order dated 21.06.2018, passed by the Commissioner of Income Tax (Appeals), Muzaffar Nagar [hereinafter referred to as CIT (Appeals)] for assessment year 2010-11.

2. In this case the sole controversy revolves around the contention of assessee, Smt. Asha Saini that the Savings bank account No.623010014000 in the ING Vaisya Bank Ltd., Siddhartha Colony, Muzaffar Nagar branch does not belong to her and it was not opened in the name of appellant, Smt. Asha Saini, but was opened in the name of Smt. Asha Rani, a resident of 677, Laddhawala, Muzaffar Nagar.

3. The ld. Counsel of the assessee first of all drew my attention towards page Nos. 36 to 39 of assessee's paper book and submitted that the specimen signature in the bank record were matched with the signature of appellant by a qualified hand-writing expert, but he opined that the disputed and sample signatures are written by different persons and these disputed and sample signatures are completely different from each other, which clearly shows that the assessee had not opened any bank account. The ld. Counsel further drew my attention to page Nos. 4 to 14 of assessee's paper book and submitted that at the instance of appellant, Smt. Asha Saini, Police Station Civil Lines, District Muzaffar Nagar, registered a First Information Report No. 0652/2018 on 11.09.2018 under Section 420 of Indian Penal Code (IPC for short) against 9 persons including some bank officials which also shows and establishes beyond doubt the bonafide of the appellant dis-owning the impugned bank account

opened by some other lady, Smt. Asha Rani, by using the identity proof and address of the appellant. Therefore, the Assessing Officer was not right in making addition in the hands of the assessee and the ld. CIT (Appeals) was also not correct in confirming the same.

4. Replying to the above the ld. Sr. DR strongly supported the assessment order and submitted that the assessee did not appear before the Assessing Officer. Therefore, he was compelled to pass assessment order under Section 144/147 of the Income Tax Act, 1961 (the Act) on 27.12.2017 and during first appellate proceedings the ld. CIT (Appeals) after considering the explanation and stand of the assessee rightly confirmed the addition as the account was opened by the assessee and impugned amounts were deposited by her and now to evade tax liability, she is dis-owning the impugned bank account. Placing re-joinder to the addition, the ld. Counsel submitted that there is no iota of any evidence that the amount deposited in the impugned bank account was ever withdrawn or utilized by the appellant or diverted to the other bank account of any relative, person, friend or family member. Therefore, in view of AR and hand-writing expert, it is very clear that the impugned bank account does not belong to the assessee and no addition can be made on the basis of deposits made therein by some forged persons in the hands of assessee.

5. On careful consideration of rival submissions, I am of the considered opinion that it is not a case of the Assessing Officer that the assessee was the ultimate beneficiary of the amounts deposited in the bank account. Hand-writing expert report dated 2.12.2017 and copy of FIR available at assessee's paper book clearly reveals that the hand-writing expert clearly opined that the disputed and sample signatures of the appellant had been written by different persons and disputed and sample signatures are completely different from each other. Copy of FIR registered by Police Station Civil Lines, Muzaffar Nagar, dated 11.09.2018 also supports the explanation and case of the assessee and also establishes bonafide and legal action taken by the assessee against the culprits. Therefore, I decline to accept contention of the authorities below that the impugned bank account with ING Vaisya Bank Ltd., belongs to the assessee and it was opened by the assessee by using her identity and residential proof. Therefore, I am compelled to hold that no addition can be made in the hands of the assessee on the instance of such bank account which has been disowned by the appellant. It is pertinent to mention that the bank account has been opened in the name of Smt. Asha Rani whereas the name of present appellant is Smt. Asha Saini. So far as similarity in the address is concerned, when the identity and residential proof of the assessee has been misused by the culprits, then it

is obvious that the actual address would match with the address mentioned in the bank documents, but this fact does not wipe out the other substantial evidences placed on the record by the appellant. Therefore, addition made by the Assessing Officer and confirmed by the ld. CIT (Appeals) stands deleted.

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

Order pronounced in the open court on : 11/05/2022.

Sd/-
(CHANDRA MOHAN GARG)
JUDICIAL MEMBER

Dated : 11/05/2022.

MEHTA

Copy forwarded to :

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

ASSISTANT REGISTRAR
ITAT, New Delhi

ITA. No. 5529/Del/2018

Date of dictation	10.05.2022
Date on which the typed draft is placed before the dictating member	11.05.2022
Date on which the typed draft is placed before the other member	11.05.2022
Date on which the approved draft comes to the Sr. PS/ PS	11.05.2022
Date on which the fair order is placed before the dictating member for pronouncement	11.05.2022
Date on which the fair order comes back to the Sr. PS/ PS	11.05.2022
Date on which the final order is uploaded on the website of ITAT	11.05.2022
date on which the file goes to the Bench Clerk	11.05.2022
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	