

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES “SMC-II” : DELHI
BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER

ITA.No.7415/Del./2019
Assessment Year 2016-2017

Mrs. Sushila Jagnani, 30, Harsh Vihar, Pitampura, New Delhi PIN – 110 034 PAN AEFPJ3632Q	vs.	The Income Tax Officer, Ward – 40 (5), Room No.1814, 18 th Floor, E-2 Block, Dr. S.P.Mukherjee Civic Centre, New Delhi – 002.
(Applicant)		(Respondent)

For Assessee :	Ms. Sonia Jagnani, C.A.
For Revenue :	Shri Prakash Duby, Sr. DR

Date of Hearing :	08.12.2020
Date of Pronouncement :	15.12.2020

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Assessee has been directed against the Order of the Ld. CIT(A)-14, New Delhi, Dated 17.06.2019, for the A.Y. 2016-2017, challenging the addition of Rs.95,000/-.

2. We have heard the Learned Representative of both the parties through video conferencing and perused the material on record.

3. Briefly the facts of the case are that assessee filed return of income declaring income of Rs.68,651/-. The assessee was asked to furnish details of investment made in security transaction along with its source. The assessee did not furnish details in respect of investment made in security transaction. The A.O. issued show cause notice seeking explanation of assessee, in response to which, assessee furnished only copy of the computation and bank statement. The A.O. noted that assessee has traded in intraday share transactions and has made payment of Rs.95,000/- on two occasions [Rs.70,000/- + Rs.25,000/-] to broker M/s. S.S. Corporate Securities Ltd., as reflected in bank statements of Federal Bank Ltd., A/c. No.xxx3755. Since the assessee failed to explain the source of investment of the above payments, therefore, A.O. made addition of Rs.95,000/-.

3.1. The assessee challenged the addition before the Ld. CIT(A). The Ld. CIT(A) considering the explanation of assessee, confirmed the addition and dismissed the appeal of assessee. His findings in paras 5.1 and 5.2 of the Order are reproduced as under :

“5.1. During the course of the appellate proceedings, the AR of the appellant appeared and filed a copy of her ITR for AY 2016-17, computation of taxable income and bank account No. 1710000101310788 standing in the name of the appellant. She also filed the copy of her submissions made before the AO which was asked to be taken as her submissions in this case. It is seen from this copy of the bank account that no payment was made to the share broker M/s SS Corporate Securities Ltd from this account. In order therefore to verify the payments, the assessment records were called for from the AO. It is seen from the records that the payment of Rs.95,000/- to M/s SS Corporate Securities Ltd was made

through Federal Bank Ltd. Account No. 14530100003755 of the Federal Bank stands in the name of the appellant along with Mr. Anandi Lai Jagnani as the joint holder. Also it is seen that the payments were made on 08.12.2015 for Rs.70,000/- and on 20.02.2016 for Rs.25,000/-. It is also observed from the bank account that just before the payment to M/s SS Corporate Securities Ltd on 20.02.2016 the appellant had Rs.1,297.24 as credit balance and then she made a cash deposit of Rs.25,000/- on 17.02.2016, taking the bank balance to Rs.26,297.24. This shows that had the deposit in cash not been made, the appellant would not have been able to issue a cheque of Rs.25,000/- to M/s SS Corporate Securities Ltd. As the appellant failed to give the source of this cash deposit or other credit entries in the bank account to explain the source of her investment, this total payment of Rs.95,000/- remains unexplained investment.

5.2 *As per the provisions of section 69, if an assessee makes an investment and offers no explanation about the nature of source of investment or the explanation offered is not satisfactory in the opinion of the AO then the value of investment will be deemed to be the income of the assessee in that year. In this case also the appellant could not explain the source of investment either at the time of assessment proceedings nor at the time of appellate proceedings, hence the same would be treated as deemed income of the appellant.*

In view of the above facts, the action of the AO of adding back to Rs.95,000/- as unexplained investment is upheld. The addition is therefore confirmed.”

4. Learned Counsel for the Assessee reiterated the submissions made before the authorities below and while referring to the ground of appeal submitted that Rs.70,000/- were given by the assessee's husband who had

received certain LIC payment and paid the same and the balance amount of Rs.25,000/- was paid by assessee from her personal savings. Thus, the entire addition is liable to be deleted.

5. On the other hand, Ld. D.R. submitted that whatever bank account was filed by assessee did not reflect the payment made by assessee to the broker as is observed by the Ld. CIT(A) and ultimately it was found that payment is made to the broker through Federal Bank A/c.No.xx3755 which appears to be not disclosed by the assessee to the Income Tax Department. Therefore, the addition is rightly made. Learned Counsel for the Assessee in her rejoinder referred to the assessment order and submitted that A.O. has referred to the Bank A/cxxx3755 of Federal Bank Ltd., which is shown to the Income Tax Department.

6. We have considered the rival submissions. It is not in dispute that assessee on two occasions made payments of Rs.70,000/- and Rs.25,000/- to the broker M/s. S.S. Corporate Securities Ltd., The Ld. CIT(A) on going

through the record found that payment of Rs.95,000/- is made to the broker through Federal Bank A/c. xxx3755 which is referred to by the A.O. in the assessment order, thus, the said Bank account could not be treated as not disclosed to the Income Tax Department. The Ld. CIT(A) has also mentioned that this account is maintained by assessee along with Mr. Anandi Lal Jagnani as a joint holder in which there appears some entries. Thus, the contention of assessee that Rs.70,000/- is paid by assessee to the broker was on account of the amount received through LIC payment should have been verified by the authorities below. We, therefore, find it appropriate to restore the issue of verification of Rs.70,000/- if received through LIC to the A.O. for verification. The orders of the authorities below to that extent are set aside and the issue of verification of Rs.70,000/- received through LIC is restored to the file of A.O. with a direction to re-decide this issue in accordance with Law by verifying the facts by giving reasonable, sufficient opportunity of being heard to the assessee. However, as regards the addition of Rs.25,000/- is

concerned, the Learned Counsel for the Assessee submitted that this amount was deposited by the assessee from her personal savings for which no evidence is produced before the authorities below. The return of income filed by assessee is of meager amount of Rs.68,651/- only for assessment year under appeal and no details of returns filed for earlier year or have accumulated any amount in her personal savings is produced before us as well. Therefore, in the absence of any evidence with regard to deposit of Rs.25,000/- cash out of personal savings, explanation of assessee cannot be accepted. We, therefore, confirm the addition of Rs.25,000/- and dismiss the appeal of assessee to that extent. Accordingly, appeal of assessee is partly allowed for statistical purposes.

7. In the result, appeal of Assessee partly allowed for statistical purposes.

Order pronounced in the open Court.

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER
Delhi, Dated 15th December, 2020
VBP/-

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC-II' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.