No addition of amount shown in form 26 AS for taxation If assessee is not the actual beneficiary such amount

In ***Dr Swati Mahesh Vinchurkar v. Deputy Commissioner of Income-tax, Bangalore [IT APPEAL No. 43 (SRT) OF 2021 dated June 28, 2021]***, Dr Swati Mahesh Vinchurkar **("the Appellant")** has filed this appeal challenging the order dated February 28, 2021 passed by Commissioner of Income tax (Appeals) National Faceless Centre, Delhi **("the CIT(A)"),** which in turn arise against the order passed made by Central Processing Centre **("CPC")** Bangalore, under section 143(1) of the Income-tax Act,1961 **("the IT Act")** . The Appellant is aggrieved by the decision of Ld. CIT(A) in confirming an additions made by Deputy Commissioner of Income Tax, CPC of Rs. 563,592/- under the head salary under section 143(1) of the IT Act based on entry shown in Form-26AS.

Factually, the Appellant is resident of Surat City, State of Gujarat. The Appellant is Doctor by profession and filed her return of income for assessment year (AY) 2017-18 on October 14, 2017 declaring taxable income of Rs. 5,23,413/- in the computation of total income by showing income from "profession" and "other source". The CPC, Bangalore while processing the return of income made addition of Rs. 5,63,952/-. Though in response to the notice under section 143(2) of the IT Act, the Appellant denied of having earned any kind of such income. The CPC made these additions on the basis of statement of TDS in Form-26AS being tax deducted at source (TDS) of Rs. 10,000/- by Electricity Distribution Division Gajraula-UP and other entry of Rs. 98,252/- by way of salary income and TDS of Rs. 5000/- deducted shown by Electricity test division Amroha-UP.

Further, the Appellant submits that she has not rendered any professional or other services either to Electricity Distribution Division Gajraula-UP or to Electricity test division Amroha-UP both of these divisions are more than 1000 Kilometers away from Surat City. And the Appellant has no concern or casual connection or any kind of relation with the alleged deductor, the entry of TDS in the Form-26AS issued to the Appellant is wrong. The Appellant filed appeal before CIT(A) and made her submissions but the same was ignored and made addition under the head 'income from salary'. The ld. CIT(A) despite recording the submissions of the Appellant confirmed the addition made by CPC Bangalore by taking view that it seems that CPC had considered the Appellant explanation before making disallowance. It was also held that there is *prima facie* evidence that the Appellant has earned such income and dismissed the appeal of Appellant.

The Hon'ble Income Tax Appellate Tribunal **("the ITAT")** considered the rival submissions of the parties and have gone through the orders of the lower authorities carefully and held that the Appellant While filing her return of income has shown income from profession and other sources. During the process by CPC, the additions were made in the hand of Appellant on the basis of TDS shown in Form-26AS. The ITAT finds that in response

to the notice of CPC, the Appellant denied of having such income and that her response was ignored. Then before ld. CIT(A), the Appellant again specifically contended that she has not earned such income nor any work was performed by her. The ITAT find that despite specific contention of the Appellant the ld. CIT(A) instead of verifying the facts confirmed the additions by taking view that it seems that CPC had considered the appellant explanation before making disallowance and that there is *prima facie* evidence.

Held, once the Appellant denied that she has not earned such income as reflected in her Form-26AS, the onus shift on the revenue authorities to prove such income of the Appellant. The addition is based solely on the basis of TDS shown in Form-26AS ignoring the submissions of the Appellant. The ITAT Considering the peculiar facts of the present case finds merit in the submissions of Appellant that she had not entered into any such transactions and the lower authorities have not made any verification or effort to verify such transactions and there is certain mistake of entering the wrong PAN which belongs to the Appellant and the addition made in the income is uncalled for.

The ITAT further relied upon the decision in ***Ravindra Pratap Thareja v. ITO [IT APPEAL No. 137 (JAB) OF 2014 dated March 31, 2015]*** in which it was held that merely because a payment was reflected in Form-26AS and was shown to have been made to the assessee, it could not be brought to tax as it could not be established that the assessee was actual beneficiary of said payments and the additions was liable to be deleted.

The ITAT, considering the above said factual and legal discussions and keeping in view of the peculiar facts of the case. Accordingly, allowed the grounds of appeal raised by the Appellant.

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