

**IN THE INCOME TAX APPELLATE TRIBUNAL
JODHPUR BENCH, JODHPUR
BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

379/Jodh/2019
(ASSESSMENT YEAR- 2010-11)

Smt. Bhawna Nagori B-332, Shastri Nagar Bhilwara	Vs	The ITO Ward-4 Bhilwara
(Appellant)		(Respondent)
PAN NO. ADLPN 9819 Q		

Assessee By	Shri Goutam Chand Baid, CA
Revenue By	Shri S.M. Joshi, JCIT-DR
Date of hearing	21/03/2023
Date of Pronouncement	22 /03/2023

ORDER

PER: SHRI MANISH BORAD, AM

This is an appeal filed by the assessee against the order of the Id.
CIT(A), Ajmer dated 19-08-2019 for the assessment year 2010-11
raising therein solitary ground of appeal as under:-

“that on the facts and in the circumstances of the case, ld.CIT(A) erred in sustaining the order u/s 154 by which AO enhanced interest chargeable u/s 234A from Rs.8297/- to Rs.97493/- denying to follow judgement of Hon’ble Bomaby High Court and Hon’ble Jodhpur ITAT Bench referred by assessee. It may be pertinent to mention here that ITAT Jodhpur is jurisdictional Bench.”

2.1 Apropos solitary ground of the assessee, the facts as emerge from the order of the ld.CIT(A) are as under:-

“3.2 I have gone through the order, statement of facts, ground of appeal, written submission, remand report and rejoinder carefully. It is seen that the AO has revised the amount of interest charged u/s 234A to Rs.97,493/- from Rs.8,296/- charged in the assessment order passed u/s 143(3) r.w.s. 147 on 26-03-2015. It is seen that the AO has computed the interest strictly as per the provisions of Section 234A for the period of 47 months for the period August 2020 to June 2014. I am in agreement with the view of the AO that there was a mistake apparent from record in the assessment order dated 26-03-2015 passed u/s 143(3) r.w.s. 147. As far as the amount of interest charged u/s 234A is concerned, the mistake has rightly been rectified by the AO u/s 154. Accordingly, the order dated 30-11-18 passed by the AO u/s 154 is held to be

valid and in accordance with the provisions of law.

Accordingly, all the grounds of appeal are dismissed.

2.2 During the course of hearing, the ld.AR of the assessee prayed that the lower authorities have erred in confirming the order passed by the AO u/s 153 of the Act.

2.3 On the other hand, the ld. DR supported the orders of the authorities below.

2.4 We have heard both the parties and perused the materials available on record. It is not imperative to repeat the facts of the case as the ld. CIT(A) has elaborately mentioned the case in his order. It is noted from the submission of the ld. AR of the assessee wherein he referred to Bombay High Court in the case of Priti Pithawala vs ITO (2003) 129 Taxman 79 wherein it is observed that a belated return cannot be submitted after the expiry of one year from the end of the assessment year. If any assessment is made for the first time u/s 147 then the assessee cannot be made to pay interest for the period during which it was not possible on the part of the assessee to file return i.e. after one year from the end of the assessment year till issuance of notice u/s 148 of the Act. Hence, in this view of the matter, order

passed by the AO u/s 154 is not in accordance with law and we do not concur with the findings of the Id. CIT(A). Thus the appeal of the assessee is allowed.

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

Order pronounced in the open Court on 22/03/2023.

Sd/-

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

(MANISH BORAD)
ACCOUNTANT MEMBER

Dated : 22/03/2023

**Mishra*

Copy to:

1. The Appellant
2. The Respondent
3. The CIT
4. The DR
5. Guard File

Assistant Registrar

Jodhpur Bench