

**122(5A) (Order to amend Original assessment prejudicial to revenue)****Name:** AYESHA AMJAD**Address:****Registration No****Tax Year :** 2016**Period :** 01-Jul-2015 - 30-Jun-2016**Medium :** Online**Due Date :** 24-Dec-2020**Contact No:****Document Date** 24-Dec-2020

Description	Code	Amount
Tax Chargeable	9200	1,658,860
Taxable Income	9100	6,969,600
Total Income	9000	6,969,600

This is not a valid evidence of being a "filer" for the purposes of clauses (23A) and (35C) of sections 2 and 181A.

**ORDER UNDER SECTION 122(5A)**

As per income tax return e-filed dated 28-Oct-2016 for the Tax Year 2016, Taxpayer has declared the following results:-

Description	Rs.
Taxable Income	6,969,600
Tax Chargeable	1,658,860

The said return is deemed to be an assessment order as per section 120(1) of the Income Tax Ordinance, 2001. Perusal of the assessment order mentioned supra reveals that the same was erroneous in so far as prejudicial to the interest of revenue requiring amendment u/s 122(5A) of the Income Tax Ordinance, 2001. Accordingly, a show cause notice under section 122(9) read with section 122(5A) of the Income Tax Ordinance, 2001 was issued dated 30-Jan-2018 for compliance by 06-Feb-2018. Gist of show cause notice is as under:-

"Whereas I consider necessary that the assessment order treated as issued under section 120 or issued under section 121 or amended assessment u/s 122(3) needs alteration or and to make addition to income by amended or further amended assessment of amended assessment under section 122 for imposition of the correct amount of tax for the tax year 2016, as in my opinion, Income Tax Return /Statement and documents relating to the income and tax filed under the relevant provisions of this Ordinance show following discrepancies:-

The assessment record in your case has been requisitioned. The examination of record reveals the following facts:-

1. That you filed return of income for tax year 2016 declaring only property income at Rs. 6,969,600/-.
2. Perusal of wealth statement as on 30.06.2016 reveals that you have shown total assets at Rs. 66,261,015/- including the moveable / immoveable assets which was reconciled with the previous year assets at Rs. NIL/-. You have shown receipt of Gift at Rs.56,000,000/-. Other source has also declared at Rs.4,700,000/-. However no business income has been shown. Income from other source needs verification. Mode of receipt of gift also needs verification whether it was received through normal banking channel or not in the light of section 39(3) of the Income Tax Ordinance, 2001. These sources need to be probed through audit.
2. From the facts as mentioned above, it is evident that the assessment completed in your case under section 120(1) of the Income Tax Ordinance, 2001 is not only erroneous but also prejudicial to the interest of revenue. Hence, you are being afforded an opportunity through this notice u/s 122(9) read with section

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122(5A) of the Income Tax Ordinance, 2001 to furnish comprehensive reply in this regard. Please note that in case of non-compliance or an unsatisfactory explanation necessary amendment of assessment u/s 122 (5A) of the Income Tax Ordinance, 2001 shall be made in the light of treatment as suggested above." In response to the said show cause notice, the taxpayer, filed written reply on online portal of IRIS dated 02.04.2018, which is reproduced as under:

"Reference your office letter # 531 dated 16-03-2018 in which I was asked to submit clarification regarding declaration of wealth amounting to Rs.66,261,015/-. In this regard my submissions are as under:

1. Prior to Tax Year 2016 no taxable income was being derived by me. Hence all my assets/liabilities were being declared in the wealth statement of my spouse Mr. Qamar Javed Bajwa bearing National Tax Number 0714207-2.
2. During the period relevant to the Tax Year 2016 first time my property at DHA, Lahore started fetching annual rent of Rs.6,969,600/-. Hence a separate Income Tax return in my name was required to be file which was done accordingly.
3. The assets declared by me to the tune of Rs.66,261,015/- are just shifted from the wealth statement of my spouse Mr. Qamar Javed Bajwa to my wealth statement as well as rental income declared during the year which was shown in the reconciliation statement for the year ending as on 30-06-2016. No physical transfer/transaction any of the asset has been occurred.

I hope that the above statement of facts and clarifications will suffice to drop the proceedings initiated. You are, therefore, requested to please withdraw the notice issued and oblige."

On assuming the jurisdiction by this office, the reply already submitted by the taxpayer was examined and another notice for further explanation was sent dated 05.11.2020, followed by a few reminders requiring her to provide documentary evidence of assets transfer along with Income Tax return & wealth statement of her Husband for the tax period in which such transfer was made to prove her stance, with last hearing notice dated 15.12.2020 for compliance by on 22.12.2020.

On due date, AR o the taxpayer, Mr. Nisar Bhatti attended the office and presented Wealth statement for concerned tax year of spouse of the taxpayer showing an outflow amounting to Rs. 60,700,000/- as gift.

The reply submitted by the AR of the taxpayer was examined and found satisfactory after verification of their documents presented at hearing; hence no adverse inference is drawn.

In view of the above, proceedings initiated u/s 122(5A) of the Income Tax Ordinance, 2001 are hereby closed.

(Arooj Mehwish Rizvi)  
ADDITIONAL COMMISSIONER INLAND REVENUE  
RANGE III, AUDIT -II, CTO, LAHORE

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<b>Receipts / Deductions</b>				
Description	Code	Total Amount	Amount Exempt from Tax / Subject to Fixed / Final Tax	Amount Subject to Normal Tax
Income / (Loss) from Property	2000	6,969,600	0	6,969,600
Total Receipts from Property	2029	8,712,000	0	8,712,000
Rent Received or Receivable	2001	8,712,000	0	8,712,000
Total Deductions from Property	2099	1,742,400	0	1,742,400
1/5th of Rent of Building for Repairs	2031	1,742,400	0	1,742,400
<b>Deductible Allowances</b>				
Description	Code	Total	Inadmissible	Admissible
Deductible Allowances	9009	0	0	0
Charitable Donations u/c 61, Part I, 2nd Schedule	9004	0	0	0
Profit on Debt etc. u/s 64A	9007	0	0	0
<b>Tax Reductions</b>				
Description	Code	Total Amount	Tax Chargeable	Tax Reduced
Tax Reductions	9309	0	0	0
Tax Reduction for Full Time Teacher / Researcher	9302	0	0	0
<b>Tax Credits</b>				
Description	Code	Eligible Amount	Ineligible Amount	Tax Credit
Tax Credits	9329	0	0	0
Tax Credit for Charitable Donations u/s 61	9311	0	0	0
Tax Credit for Investment in Shares and Life Insurance Premium u/s 62	9312	0	0	0
Tax Credit for Contribution to Approved Pension Fund u/s 63	9313	0	0	0
Tax Credit for Tax Paid on Share Income from AOP	9321	0	0	0
Tax Credit for Tax Charged on Behbood Certificates / Pensioner's Benefit Account in excess of applicable rate	9322	0	0	0

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<b>Adjustable Tax</b>				
<b>Description</b>	<b>Code</b>	<b>Receipts / Value</b>	<b>Tax Collected / Deducted</b>	<b>Tax Chargeable</b>
Adjustable Tax	640000	0	1,284,175	0
Rent of Property u/s 155	64080001	0	1,241,800	0
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Cash Withdrawal from Bank u/s 231A	64100101	0	42,375	0
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<b>Computations</b>				
<b>Description</b>	<b>Code</b>	<b>Total Amount</b>	<b>Amount Exempt from Tax / Subject to Fixed / Final Tax</b>	<b>Amount Subject to Normal Tax</b>
Income / (Loss) from Property	2000	6,969,600	0	6,969,600
Total Income	9000	0	0	6,969,600
Deductible Allowances	9009	0	0	0
Taxable Income	9100	0	0	6,969,600
Tax Chargeable	9200	0	0	1,658,860
Normal Income Tax	920000	0	0	1,658,860
Final / Fixed / Minimum / Average / Relevant / Reduced Income Tax	920100	0	0	0
Tax Reductions	9309	0	0	0
Tax Credits	9329	0	0	0
Super Tax Chargeable	923181	0	0	0
Difference of Minimum Tax Chargeable u/s 148(8) / 153(3) (b) / 113(b)	923192	0	0	0
Difference of Minimum Tax Chargeable u/s 113	923194	0	0	0
Refund Adjustment of Other Year(s) against Demand of this Year	92101	0	0	0
Withholding Income Tax	9201	0	1,284,175	
Admitted Income Tax	9203	0	374,685	0