

## **NRI's Income or Deposit in Foreign Bank Account cannot be Taxed in India: ITAT**

**Ananya Ajay Mittal (I.T.A. No. 6949/Mum/2019)**

### **Facts:**

1. The assessee had filed the return of income in the status of an ordinary resident but subsequently, during the assessment proceedings, filed revised return as a non resident.
2. He had given evidence of his stay and stated that he was out of India for 212 days In the relevant FY. As he is a non resident, the records of foreign bank accounts were not required to be maintained by him.
3. The AO maintained that the appellant was a student in US and had no known source of income in the US. So it has to be assumed that the credits in the foreign bank account were from his income arising out of India and he was under obligation to declare such income in his return of income.

### **ITAT Mumbai held as below:**

1. Merely mentioning the status as resident in the original return of income does not make the assessee as resident in India. Here in this case, assessment has been made u/s 153A and the assessee has declared the status as non-resident in return of income filed in response to the notice u/s 153A and the assessment has been completed in the status of non-resident.
2. Thus the assessee could not be treated as resident and income or deposit in the foreign bank account of the assessee who is not resident in India could not be taxed in India.