

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'F' : NEW DELHI)**

**BEFORE SHRI J.S. REDDY, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**ITA No.4504/Del./2014
(ASSESSMENT YEAR : 2009-10)**

Shri Rahul Seth,
14, Chinar Drive,
DLF Chhatarpur Famrs,
New Delhi – 110 074.

vs. ACIT,
Central Circle 25,
New Delhi.

(PAN : AASPS9459B)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Salil Aggarwal, Advocate
REVENUE BY : Smt. Meenakshi Singh, CIT DR

Date of Hearing : 18.07.2016

Date of Order : 20.07.2016

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

The appellant, Shri Rahul Seth, by filing the present appeal, sought to set aside the impugned order dated 27.05.2014 passed by Id. Commissioner of Income-tax (Appeals)-XXV, New Delhi qua the assessment year 2009-10 on the grounds inter alia that :-

“1. The Worthy Commissioner of Income Tax (Appeals) has confirmed the addition made by the ACIT, Central Circle 23, New Delhi to the extent of Rs.49,000/-.

Further, the Appellant craves for the right to raise additional grounds of Appeal during the course of hearing. Detailed submissions shall be made during the appellate proceedings.”

2. Briefly stated the facts of this case are : on the basis of search operation conducted in Sudhir Group of cases on 10.02.2010, notice under section 153A of the Income-tax Act, 1961 (for short ‘the Act’) dated 01.11.2010 was served upon Shri Rahul Seth, assessee, one of the partners of M/s. Sudhir Engg. Co., M/s. Power Concept and Electron Energy Systems, engaged in assembling and trading in DG set. Pursuant to the notice u/s 153A, assessee filed return declaring income at Rs.30,57,687/- on 17.02.2011 and on the basis of scrutiny, it has come on record that a sum of Rs.49,000/- as cash deposit and Rs.2,00,000/- by way of cheque has been credited in the bank account of Avyan Seth (minor) maintained with Syndicate Bank. On failure of the assessee to explain the source of credits, the amount of Rs.2,49,000/- has been added to the income of the assessee as unexplained cash credit.
3. Assessee carried the matter before the Id. CIT (A) by challenging the assessment order who has partly allowed the appeal

by deleting the addition of Rs.2,00,000/-. Feeling aggrieved, the assessee has come up before the Tribunal by way of filing the present appeal.

4. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

5. Ld. AR for the assessee challenging the impugned order relied upon assessment order for AY 2005-06 in assessee's own case, order passed by CIT (A) for AY 2005-06 in assessee's own case,, order passed by ITAT for AY 2005-06 in assessee's own case and ITAT order for AY 2010-11 in assessee's own case, available at pages 1 to 27 of the paper book placed on record by the assessee. However, on the other hand, ld. DR relied upon the order passed by the ld. CIT (A).

6. Undisputedly, AO has made an addition of Rs.2,49,000/- (Rs.2,00,000/- credited by way of cheque and Rs.49,000/- credited by way of cash) in the bank account of Avyan Seth being unexplained credits, out of which CIT (A) vide impugned order deleted addition of Rs.2,00,000/- by satisfying himself that the amount of Rs.2,00,000/- was credited by way of cheque being the

gift made by Rakesh Batra, maternal grandfather of Avyan Seth but has affirmed the addition of Rs.49,000/-.

7. Ld. AR of the assessee contented that the amount of Rs.49,000/- deposited in the account of Avyan Seth as cash was gifted to the minor child on various occasions for the past several years.

8. No doubt, the assessee has not brought on record any evidence to prove this fact but we are of the considered view that in the totality of the circumstances wherein maternal grandfather of child has just like gifted the amount of Rs.2,00,000/- by way of cheque which has been accepted by the Id. CIT (A) while deleting the addition of Rs.2,00,000/-, the paltry amount of Rs.49,000/- claimed to have been received by Avyan Sethi, minor, cannot be disputed for the lack of evidence that on what occasion and by whom such amount was given to the minor child as gift. Because in traditional society, there are numerous occasion on which near and dear one of a minor child use to give the gift in the shape of cash and it is humanly not possible to prepare inventory thereof.

9. More so, when it is categorically pleaded by the assessee that this amount has been received continuously on various occasions for the past several years by the minor child as cash gift, the same cannot be treated as unexplained cash. So, in the given

circumstances, we hereby delete the addition made by the AO and affirmed by the Id. CIT (A) in the impugned order.

10. In view of what has been discussed above, we hereby allow the present appeal filed by the assessee.

Order pronounced in open court on this 20th day of July, 2016.

**Sd/-
(J.S. REDDY)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 20th day of July, 2016
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-XXV, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**