

IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'SMC' KOLKATA

[Before Hon'ble Shri J.Sudhakar Reddy, AM]

ITA Nos.1779, 1780&1781//Kol/2016
Assessment Years : **2005-06, 2007-08 & 2009-10**

Kajal Ghosh
Kolkata
(PAN: ACVPG 5531 H)
(Appellant)

-versus-

I.T.O., Ward-56(2)
Kolkata
(Respondent)

For the Appellant: Shri Anil Kochar & Shri S.L.Kochar, Advocate
For the Respondent: Sk. Zafarul Haque Tanweer, JCI/Addl.CIT

Date of Hearing : 13.09.2017.

Date of Pronouncement : 31.10.2017.

ORDER

These three appeals are filed by the assessee directed against the orders of the Commissioner of Income Tax-(A)-16, Kolkata relating to A.Y. 2005-06, 2007-08 and 2009-10.

2. The Assessee is the wife of one Shri Sudipta Ghosh. She derives income from sarees.

3. After hearing the rival contentions, perusing the papers on record, the additions before me are taken up year wise.

ITA No.1779/Kol/2016-A.Y.2005-06 :

4. Ground No.1 in this appeal is dismissed as not pressed. Ground No.3 is dismissed as general in nature.

5. Ground No.2 raised by the assessee in this appeal relates to the addition of Rs.84,000/-, on account of loan transactions. The assessee is a Government doctor. The assessee had stated that, she has incurred house rent expenses of Rs.4,000/- per month. No other expenses were shown as incurred. The AO was of the view that she would have spent certain money on herself and estimated the drawings. The AO

made an addition of Rs.84,000/-. The assessee's case is that, the entire domestic expenses and her maintenance is being taken care of by her husband and hence no separate drawing have been recorded by her. She further submitted that an addition of low drawings have been made at Rs.72,000/- in the case of her husband and the First Appellate Authority upheld the same. The drawings were estimated at Rs.19,000/- per months. Under the circumstances I find force in the arguments of the Id. Counsel for the assessee. Thus this addition on account of low drawings at Rs.84,000/- be deleted.

6. In the result ITA No.1779/Kol/2016 is allowed in part.

ITA No.1780Kol/2016-A.Y.2007-08 :

7. Ground No.1 is against the addition of Rs.2,75,902/- claimed as gift received by the assessee from her son, who is a NRI The Id. CIT(A) for A.Y.2006-07 at para 5 in the case of Dr.Kajal Ghosh has held as follows :-

“Decision

This issue is regarding addition made of loan and gift amount of Rs.2,28,000/-, claimed to have been received by the assessee from her two NRI sons viz. Shri Abhishek Ghosh and Shri Anirban Ghosh, A loan of Rs.75,000/- has been given to the assessee by her son Shri Abhishek Ghosh. It is claimed that Rs.75,000/- comprises of the principal amount of the NSC of Rs.50,000/- and the maturity interest thereon of Rs.25,000/--. Further, a gift of Rs.93,000/- has been made by Shri Abhishek Ghosh to the assessee from the NRE account. As regards loan from the other son Shri Anirban Ghosh, the opening balance was Rs.50,000/- and further sum of Rs.10,000/- has been given to the assessee from SBI Savings Bank Account. These bank statements and details were before the A.O. He, however, did not accept the contention of the assessee and has made the addition,

I have gone through the submissions of the assessee. The loans and gifts of Rs.2,28,000/- have been received from her NRI sons whose identity and capacity has been duly established. The payment received was duly explained before the A.O. He has not pointed out any defect or anomaly in the submissions of the assessee. The NRI sons have given the money to the assessee and the sources have been explained. The payments have been received from NRE account and through maturity of NSCs. In view of the explanation offered, I am of the opinion that the source of loan and gift from the sons has been duly explained by the assessee. Accordingly, the addition u/s 68 of Rs.2,28,000/- made by the A.O. is here by deleted.”

8. This factual finding could not be controverted by the ld. DR. Hence for the same reasons given by the ld. CIT(A) extracted above for A.Y. 2006-07 I hold that the assessee has explained the genuineness of the gift as well as source of funds. In the result this addition is hereby deleted.

9. Ground No.2 is against the addition on account of low drawings. It is similar to the addition made in ground no.1 for A.Y.2005-06. Consistent view taken therein, I delete this addition for this year.

In the result this appeal for the assessee is allowed.

ITA No.1781/Kol/2016-A.Y.2009-10 :

10. Ground No.1 is similar to ground no.1 for A.Y.2007-08. For the same reasons given while deleting the addition for A.Y.2007-08, I delete the addition on the ground that the claim of the assessee of gift is genuine and the source of fund has been proved by the assessee. Ground No.2 is similar to ground no.2 in A.Y.2005-06 and 2007-08. Consistent view taken therein I delete this addition.

11. In the result ITA No. 1780 and ITA No.1781/Kol/2016 are allowed and ITA No.1779/Kol/2016 is allowed in part.

Order pronounced in the Court on 31.10.2017.

Sd/-
[J.Sudhakar Reddy]
Accountant Member

Dated : 31.10.2017.

[RG Sr.PS]

Copy of the order forwarded to:

- 1.Smt. Kajal Ghosh, C/o S.L.Kochar, 86, Canning Street, Kolkata.
2. I.T.O., Ward-56(2), Kolkata.
3. C.I.T.(A)-16, Kolkata 4. C.I.T-6, Kolkata
5. CIT(DR), Kolkata Benches, Kolkata.

True Copy

By order,

Senior Private Secretary
Head of Office/D.D.O, ITAT Kolkata Benches