

**आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI**  
**श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष**  
**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND**  
**SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.2254/Chny/2017  
(निर्धारण वर्ष / Assessment Year: 2012-13)

The Income Tax Officer, Non-Corporate Ward – 14(5), Chennai.	Vs	Smt. C. Rajalakshmy, New No.4, Old No.10, 57 <sup>th</sup> Street, Ashok Nagar, Chennai – 600 083.
		PAN: ADXPR0667E
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

**&**  
**C.O. No.186/Chny/2017**  
(in ITA No. 2254/Chny/2017)

Smt. C. Rajalakshmy, New No.4, Old No.10, 57 <sup>th</sup> Street, Ashok Nagar, Chennai – 600 083.	Vs	The Income Tax Officer, Non-Corporate Ward – 14(5), Chennai.
PAN: ADXPR0667E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

राजस्व की ओर से /Revenue by	:	Shri AR.V. Sreenivasan, JCIT
निर्धारिती की ओर से /Assessee by	:	Shri T. Banusekar, CA

सुनवाई की तारीख/Date of hearing	:	08.02.2018
घोषणा की तारीख/Date of Pronouncement	:	03.05.2018

**आदेश / ORDER**

**Per A. Mohan Alankamony, AM:-**

The appeal by the Revenue is directed against the order passed by the learned Commissioner of Income Tax (Appeals)-14, Chennai, dated 29.03.2017 in ITA No.47/2015-16 for the assessment

year 2012-13 passed U/s.250(6) r.w.s. 143(3) of the Act. The assessee has also raised cross objections against the order of the Ld.CIT(A).

## **2 Revenue's Appeal:-**

The Revenue has raised three grounds in its appeal however the cruxes of the issues are that:-

- (i) The Ld.CIT(A) has erred in deleting the addition made by the Ld.AO who had treated the advance received amounting to Rs.55,50,000/- towards the incomplete construction work as the income of the assessee for the relevant assessment year.
- (ii) The Ld.CIT(A) has erred in deleting 75% of the addition made by the Ld.AO invoking Section 68 of the Act being unexplained marriage cash gifts received by the assessee, on estimate basis.

## **3. Assessee's Cross Objection:-**

The assessee has raised two cross objections and they are briefly stated herein below for adjudication:

- (i) The Ld.CIT(A) has erred in confirming 25% of the aggregate marriage cash gifts received by the assessee as unexplained credit U/s.68 of the Act.
- (ii) The Ld.CIT(A) has erred in levying interest U/s.234A & 234B of the Act.

4. The brief facts of the case are that the assessee is an individual engaged in the business of real estate and property development, filed her return of income electronically for the assessment year 2012-13 on 31.01.2013 admitting total income of Rs.8,20,800/-. Initially the return was processed U/s.143(1) of the Act and subsequently the case was selected for scrutiny under CASS and notice U/s.143(2) of the Act was issued on 13.08.2013. Finally the assessment order was passed U/s.143(3) of the Act on 28.03.2015 wherein the Ld.AO made additions of Rs.55,50,000/- being the amount received by the assessee against which the construction work is yet to be completed and Rs.13,95,000/- as unexplained cash credit U/s.68 of the Act being the marriage cash gifts received on the wedding of her daughter.

**Revenue's Appeal:****5. Ground No.2(i) : Addition of Rs.55,50,000/-:-**

During the course of scrutiny assessment proceedings, it was observed by the Ld.AO that the assessee had received Rs.1,02,50,000/- towards construction work in Kanchipuram. Out of this amount, Rs.47,00,000/- was treated as the revenue receipt during the relevant assessment year and the balance amount of Rs.55,50,000/- was shown as sundry creditors. On query it was explained by the assessee that the sum of Rs.55,50,000/- relates to the incomplete construction which was subsequently completed during the financial year 2012-13 and hence it was shown as sundry creditors. However the Ld.AO rejected the submission of the assessee and treated the amount of Rs.55,50,000/- also as the revenue receipt during the relevant assessment year because TDS was deducted for the entire amount of Rs.1,02,50,000/- received by the assessee in the relevant assessment year. On appeal, the Ld.CIT(A) deleted the addition made by the Ld.AO because the assessee had been consistently treating her revenue income in her books of accounts in the earlier years based on completion of work and the advance receipt as liability. The Ld.CIT(A) while deciding the issue in favour of assessee relied in the decisions of the cases, *CIT*

*vs. Bilahari Investments Pvt. Ltd. reported in 299 ITR 1-SC, CIT vs. Sakhi Finance Ltd. reported in 292 ITR 2321 Madras, CIT vs. Annamalai Finance Ltd. reported in 275 ITR 451 Madras, wherein the following ratio was laid down "The assessee is free to follow any recognized system of accounting and the Revenue cannot change or tamper with the method of Accounting followed by the assessee unless the Revenue is able to concretely prove that any real income has escaped from the net of taxation."*

Aggrieved by the order of the Ld.CIT(A), the Revenue is in appeal before us.

5.1. The Ld.DR vehemently argued in support of the order of the Ld.AO, while as Ld.AR relied on the order of the Ld.CIT(A).

5.2 We have heard the rival submissions and carefully perused the materials on record. From the facts of the case it is apparent that the assessee has been following mercantile system of accounting thereby recognizing the revenue receipt on 'projects completion method'. Accordingly the advance amount received by the assessee was treated as liability, since the construction activity for that portion of the advance was in progress and completed during the subsequent assessment year. This method of accounting consistently followed by

the assessee cannot be found fault with and therefore we do not find any infirmity in the order of the Ld.CIT(A) in this issue. The decisions relied by the Ld.CIT(A) in his Order is also relevant to the issue in the appeal. Hence, we hereby uphold the order of Ld.CIT(A) on this issue.

**6. Ground No.2(ii) : Addition of Rs. 13,95,000/- :-**

During the course of assessment proceedings, it was noticed by the Ld.AO that the assessee had made various cash deposits in her bank account. On query, it was explained that cash deposit made on 02.11.2011 amounting to Rs.13,95,000/- in her bank account were cash gifts received by her during the marriage of her daughter on the same day. The Ld.AO rejected the submission of the assessee because of the following reasons:-

- i. Since the marriage took place between 9am and 11am there would not have been sufficient time to count the cash gifts and deposit it in the bank on the same day.
- ii. The assessee has not disclosed the expenditure incurred in connection with the marriage of her daughter.

- iii. The marriage venue was a prestigious marriage hall, the rent ranging between Rs.5 to 10 lakhs other than the expenditure incurred for food, music, clothes, etc.,

For the above stated reasons the Ld.AO opined that the amount of Rs.13,95,000/- stated to be as cash gifts would be the unexplained income of the assessee and thereby invoking the provisions of Section 68 of the Act, made addition. On appeal, the Ld.CIT(A) considering the financial status of the family estimated the unexplained income at 25% of the total marriage gifts received and thereby sustained the addition to the extent of Rs.3.5 lakhs.

6.1 Before us the Ld.DR heavily relied on the order of the Ld.AO and pleaded that the same may be sustained and the order of the Ld.CIT(A) may be set aside. The Ld.AR on the other hand argued by stating that the addition sustained by the Ld.CIT(A) is erroneous and relief may be granted for the entire amount of cash gifts of Rs.13,95,000/-.

6.2 We have heard the rival submissions and carefully perused the materials available on record. It is a customary practice to offer cash

gifts on the occasion of marriages. Therefore the entire cash deposits made in the bank account claimed to have been received as cash gifts cannot be taxed invoking the provisions of Section 68 of the Act. The Ld.CIT(A) after examining the family status of the assessee has fairly estimated the cash gifts received during the occasion of her daughter's marriage. In this situation, we do not find it necessary to interfere with the order of the Ld.CIT(A) on this issue.

**Assessee's Cross Objection:-**

**7. Ground No. 3(i) : Sustaining the addition of 25% of the total marriage gift U/s.68 of the Act:-**

Since we have upheld the order of the Ld.CIT(A) for sustaining the addition of 25% of the aggregate marriage cash gifts received by the assessee amounting to Rs.3.5 lakhs, the cross objection raised by the assessee on this issue does not survive.

**8. Ground No.3(ii) : Levy of Interest U/s.234A & 234B of the Act:-**

Levy of interest U/s.234A & 234B of the Act are consequential in nature and therefore this ground raised by the assessee is also not maintainable.

9. In the result the appeal of the Revenue as well as the cross objection of the assessee are dismissed.

Order pronounced on the 03<sup>rd</sup> May, 2018 at Chennai.

Sd/-  
(एन.आर.एस. गणेशन)  
(N.R.S. Ganesan)  
न्यायिक सदस्य/Judicial Member

Sd/-  
(ए. मोहन अलंकामणी)  
(A. Mohan Alankamony)  
लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 03<sup>rd</sup> May, 2018

**RSR**

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|------------------------|-------------------------|------------------------------|
| 1. निर्धारिती/Assessee | 2. राजस्व/Revenue       | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT     | 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF             |