

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "बी" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'B', CHANDIGARH

श्री संजय गर्ग, न्यायिक सदस्य एवं डा. बी.आर.आर, कुमार, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1677 & 1678/CHD/2017

निर्धारण वर्ष / Assessment Years : 2009-10 & 2010-11

Ms. Ritu Chauhan, Anandam Villa, Horticulture Road, Sanjauli, Shimla	बनाम	The DCIT, Central Circle II, Chandigarh
स्थायी लेखा सं./PAN NO: ANNPC5025D		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Sh. Vishal Mohan, CA

राजस्व की ओर से/ Revenue by : Sh. G.S. Phani Kishore, CIT DR

सुनवाई की तारीख/Date of Hearing : 28.01.2019

उदघोषणा की तारीख/Date of Pronouncement : 11.2.2019

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeals have been preferred by the assessee against the separate orders dated 30.7.2017 of the Commissioner of Income Tax (Appeals)-3, Gurgaon [hereinafter referred to as 'CIT(A)'].

2. Since common issues are involved in both the appeals, hence, they were heard together and are being disposed of by this common order. The facts which are almost identical are being taken from **ITA No. 1677/Chd/2017**.

3. Both the appeals, as per the report of the Registry, are barred by limitation period of 59 days. A separate application for condonation of delay has been filed, wherein, it has been stated that the assessee had

handed over the papers to his C.A. Shri Manoj Gupta for filing the appeal, however, the said C.A. could not file the appeal in time as the file got misplaced in the office of the C.A. due to rush of tax audit. That when the appellant enquired about his appeal, only then her C.A. made enquiry and thereafter the papers were traced and immediately the appeal was filed. The above plea has been supported with the affidavit of Shri Manoj Gupta, C.A.

Considering the above submissions, the delay in filing the appeals is hereby condoned.

4. On merits of **ITA No.1677/Chd/2017**, the Ld. Counsel for the assessee has submitted that the Ld. CIT(A) has confirmed the addition of Rs. 7 lacs made by the Assessing officer u/s 68 of the Income-tax Act, 1961 (in short 'the Act') on the ground that the assessee had failed to establish with cogent evidence that she had received the gift of Rs. 7 lacs from her mother in the year under consideration. The Ld. Counsel for the assessee has further invited our attention to para 5.2.2 of the appellate order, wherein, the Ld. CIT(A) has mentioned that the assessee had filed an application for additional evidence to prove the factum of the aforesaid gift by the mother of the assessee. However, the Ld. CIT(A) without considering the said evidences, rejected the application and thereby confirmed the addition made by the Assessing officer. The Ld. Counsel for the assessee has further invited our attention to the page 5 of the paper book which is copy of the application for the additional evidence, whereby, the assessee has sought permission to place on record the bank statement recorded alongwith confirmation received from the mother of the assessee and has further prayed that these evidences go to the root of the matter and

the same is required to be admitted as additional evidence. It has also been explained in the said application that the bank account statement and confirmation of the mother was not available with the assessee at that time. The Ld. Counsel for the assessee in this respect has also invited our attention to the copy of the bank statement and confirmation of the mother of the assessee.

5. Since the additional evidence sought to be produced by the assessee goes to the root of the case and is very essential for the just and proper decision of the case, hence, in our view, the same is required to be considered. We, therefore, set aside the order of the CIT(A) and restore the matter to the file of the CIT(A) with a direction to admit the additional evidences sought to be produced by the assessee and give his findings on the merits of the case after duly considering the evidences submitted by the assessee in accordance with law.

The appeal of the assessee is allowed for statistical purposes.

ITA No.1678/Chd/2017 –

6. The facts of this appeal are almost identical of that of ITA No. 1677/Chd/2017. In this case, the Assessing officer has made addition of Rs. 3,60,321/- found credited in to the bank account of the assessee. The assessee during the appellate proceedings before the Ld. CIT(A) had sought to produce additional evidence to explain the source of the said deposits into the bank account of the assessee. However, the Ld. CIT(A) rejected the application for production of additional evidences and thereby dismissed the appeal of the assessee. The Ld. Counsel for the assessee has invited our attention to page 5 of the paper book and submitted that the

said amount was received from Insurance company and, therefore, has sought to produce on the file the surrender letter received from M/s Birla Sun life Insurance Company in this respect and further the copy of the bank account statement etc.

7. In view of our above observations made, since these evidences go to the root of the case, hence, the impugned order of the CIT(A) is set aside on similar terms as directed above in ITA No. 1677/Chd/2017 and the matter in this appeal is also restored to the file of the CIT(A) for a decision afresh in accordance with law.

In the result, both the appeals of the assessee are allowed for statistical purposes.

Sd/-
(बी.आर.आर. कुमार / B.R.R. KUMAR)
लेखा सदस्य/ Accountant Member

Sd/-
(संजय गर्ग / SANJAY GARG)
न्यायिक सदस्य /Judicial Member

Dated : 11.02.2019

“आर.के.”

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar