

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI**

BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER

ITA No.:-2681/Del/2018
Assessment Year: 2014-15

Amitosh Moitra 5, Western Avenue, Maharani Bagh, New Delhi Pin 110 065 PAN AAGPM2738K	vs.	ITO, Ward-61 (1) New Delhi.
(Appellant)		(Respondent)

Assessee by:	Shri Amitosh Moitra, FCA
Department by :	Shri S.L. Anuragi, Sr. DR
Date of Hearing	28/01/2019
Date of pronouncement	22/04/2019

ORDER

The aforesaid appeal has been filed by the assessee against impugned order dated 12.3.2018 passed by Ld. CIT(Appeals) 20, New Delhi for the quantum of assessment passed u/s 143(3) for the assessment year 2014-15. In various grounds of appeal assessee has challenged addition of Rs. 15,19,608 made u/s 68.

2. The facts in brief are that assessee is a Chartered Accountant by profession and had filed his return of income at Rs. 7,56,620/-. During

the course of assessment proceedings, AO noted that assessee has made cash deposits of Rs. 15,19,608/- in his ICICI Saving Bank Account. In response to the show cause notice, assessee submitted that the cash deposit was out of cash gift of Rs. 15,79,400/- received by the assessee from his daughter. The said cash was given by her on the occasion of her marriage which was conducted on last week of December, 2013. The said cash gifts were received from 500 guests. Assessee has also spent 15,13,749/- on the wedding which has been found to be reflected in the drawings of the assessee. Further assessee's submission before the AO was as under :-

“7. Assessee vide letter dated 07.12.2016 submitted that:

It is pertinent to add that the entire money spent on the assessee's daughter wedding was spent by the assessee. The gifts received during the wedding were also due to the guests and friends and relatives of the assessee himself while the money received at the time of daughters marriage was indeed the "Stridhan" of the assessee's daughter, she decided to gift it to her father out of her natural love and affection for her father. One can voluntarily gift such "Stridhan" to anyone. In the assessee's case, it was the sole discretion of daughter to gift such cash to her father. Such gifts are covered by the exception to section 56(2)(vii) and therefore there are no income tax implications in hands of assessee.

8. Attached herewith is the list of cash gift received by Ms. Aashna Moitra, Daughter of the assessee, explaining the source of the gift made by her to her father, the assessee as Annexure "2". Such list

clearly explains that this amount was received by the daughter of the assessee on the occasion of her marriage. This amount was then gifted to her father.”

3. The AO held that in order to claim benefit u/s 56(2)(vii), money should have been received by the individual on the occasion of marriage. In the present case, the event of marriage itself was questionable, because assessee has not produced any documents and date of marriage has not been provided by the assessee. Thus, he has treated the source of cash deposit as unexplained after holding that assessee has adopted a colourable device of ‘Stridhan’ to avoid the tax. Such addition has also been confirmed by the Ld. CIT(A).

4. Before the Ld. CIT(A) assessee has produced the wedding card of the marriage which was conducted on 23.12.2013 at Jhunjhunu (Rajasthan); and reception was conducted on 2.1.2014 at Delhi. Before the Ld. CIT(A), assessee has also submitted an email received from the daughter of the assessee stating that amount of gift received by her on reception is being gifted to him, which would be sufficient to reimburse against all the wedding expenses incurred. Ld. CIT(A) held that there is a large gap between the withdrawal made by the assessee which is aggregating to Rs. 15,13,749/- for the purpose of marriage expenses and cash gifts received by the assessee’s daughter which was deposited on 5.2.2014 for sum amounting to Rs. 15,00,000/- and the balance amount of Rs. 19,608/- remained completely unexplained.

5. Before us Ld. Counsel for the assessee relied upon the email written by assessee's daughter to the assessee, wherein he has categorically stated that, out of her love and affection, she would like to contribute to meet the expenses incurred for the marriage occasion and such a cash gift received by her at her reception has been gifted to him. Such an email is dated 20th January, 2014 and thereafter, assessee has deposited a sum in his bank account. Thus, cash deposits stands sustained.

6. On the other hand, Ld. DR strongly relied upon the observation and finding by the Ld. CIT(A) that there is a huge gap of more than a month between the marriage and reception date and the deposit. Further such an email cannot be the conclusive prove of gift received from assessee's daughter.

7. I have heard the rival contention and perused the relevant material placed on record. The addition has been made on account of cash deposit of Rs. 15,19,608/- in the same bank account of the assessee. The assessee's explanation has been that out of the said amount, sum of Rs. 15 lacs was deposited on 5.2.2014 which was part of the cash gift of Rs. 15,79,400/- received by the assessee from his daughter. In order to prove that cash gifts were received during the occasion of marriage and reception assessee has stated that the wedding of his daughter took place on 13th December 2013 and

reception took place on 2nd January, 2014 and in support copy of wedding card and also certain bills of marriage related expenses including the withdrawal made by the assessee for meeting the marriage expenses. The assessee has also submitted the list of the guests who have given the cash gifts to her daughter. Thereafter, it appears that assessee's daughter had requested the assessee to take all the cash gifts received by her towards reimbursement of marriage expenditure. The relevant content of email written by assessee's daughter to assessee reads as under :-

"From Aashna Moitra aashnamoitra@hotmail.com

Sent : 20th January 2014, 05:29

To: Amitosh Moitra

Subject : Thank you and Love You Dear Papa!

Dear papa,

I want to thank you once again for all that you have done for us. Erik and I are extremely overwhelmed and grateful for the huge wedding and reception that you organised for us. I know it must have been quite a task and extremely expensive to host such an event.

As we also feel responsible as well as grateful, and out of our love and affection for you, we would like to contribute to meeting the expenses incurred for the occasion. Therefore, we would like you to please keep such amount out of the gifts received by us on our reception, as would be sufficient to reimburse you for all of the

wedding expenses you have incurred. We totally insist that you fulfil our desire and it is our pleasure to be able to repay you for your efforts and generosity.

So, please keep and deposit such amount as is, necessary to meet the wedding expenses and give us only what is left after all expenses have been met.

We will always love you and be grateful

With all my love

Aashna”

8. The aforesaid email, prima facie show that daughter is acknowledging love and affection for her father and she has expressed her feeling that she and her husband would like to contribute for meeting the expenses incurred in such occasion and requested her father to keep the amount of gift received by her on her reception which will cover the reimbursement of various expenses. Such authenticity of email has not been doubted. If the factum of marriage and cash gift received on the occasion of marriage and reception is not disputed, then the aforesaid email does constitute a confirmation of assessee's daughter that she has requested her father to take all the cash gifts received by her. Such an email which is a personal in nature does constitute a relevant material in order to examine the source of cash deposit. The date of email written by assessee's daughter is 20th January, 2014 and within 15 days from the said mail, the cash has

been deposited. Thus, to the extent of Rs. 15 lacs cash deposit cannot be treated as unexplained. For the balance amount of Rs. 19,608/-, nowhere from the material placed before us, appears to be unexplained. Therefore, to this extent addition is confirmed,

9. In the result appeal of the assessee is partly allowed.

This decision was pronounced in the Open Court on 22nd April, 2019.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Dated: 22/04/2019

Veena

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi