



IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA no.6024/Mum./2018
(Assessment Year : 2006-07)

Lisa Rani Ray
C/o Sunil Sabnis & Associates, C.A.
Maneesha, 7, Anand Nagar,
Swami Nityanand Marg
Andheri (E), Mumbai 400 069
PAN – AAEPR3782N

..... Appellant

v/s

Asstt. Commissioner of Income Tax
Circle-19(3), Mumbai

..... Respondent

Assessee by : Ms. Chaitee Londhe
Revenue by : Shri Chaudhary Arunkumar Singh

Date of Hearing – 05.09.2019

Date of Order – 13.09.2019

ORDER

Aforesaid appeal has been filed by the assessee challenging the order dated 30th July 2018, passed by the learned Commissioner of Income Tax (Appeals)-48, Mumbai, pertaining to the assessment year 2006-07.

2. The dispute in the present appeal is confined to the addition of ₹ 6 lakh as unexplained investment.

3. Brief facts are, the assessee is an individual. For the assessment year under dispute the assessee had not filed any return of income under section 139(1) of the Income-tax Act, 1961 (for short "*the Act*"). On the basis of Annual Information Report (AIR) received from the system of the Department, the Assessing Officer found that during the year under consideration the assessee had invested an amount of ₹ 6 lakh in mutual funds. On the basis of such information, the Assessing Officer re-opened the assessment under section 147 of the Act by issuing notice under section 148 of the Act to the assessee and calling upon her to file the return of income. As alleged by the Assessing Officer, in spite of service of notice under section 148 of the Act, the assessee did not file any return of income. Even, subsequent notices / reminders issued by the Assessing Officer were not complied with. Accordingly, the Assessing Officer proceeded to complete the assessment ex-parte under section 144 of the Act to the best of his judgment. While doing so, the Assessing Officer observed that the assessee had failed to explain the source of investment of ₹ 6 lakh in mutual funds. Accordingly, treating the same as unexplained investment, he added back to the income of the assessee. Being aggrieved with such addition, the assessee preferred appeal before learned first appellate authority.

4. Learned Commissioner (Appeals), however, sustained the addition made by the Assessing Officer.

5. The learned Authorised Representative submitted, the assessee had invested the amount of ₹ 6 lakh in mutual funds out of the consideration received from sale of shares. She submitted, though the details of shares sold and corresponding investment made in mutual funds were furnished before learned Commissioner (Appeals), however, only because the assessee could not furnish her bank statement for the relevant period, the addition was confirmed. She submitted, since the bank account for the relevant period was not available with the assessee due to considerable lapse of time, it could not be produced. However, other documents were produced to explain the source of investment made in the mutual funds. Ultimately she submitted, given an opportunity, the assessee would definitely explain the source of investment in mutual funds.

6. Learned Departmental Representative relied upon the observations of learned Commissioner of (Appeals).

7. I have considered rival submissions and perused material on record. It is evident, the disputed addition of ₹ 6 lakh was made on account of failure on the part of the assessee to explain the source of investment made in mutual funds. It was submitted by the assessee

that the investment in mutual fund was made out of the consideration received from sale of certain shares. The details of shares sold were also furnished before learned Commissioner (Appeals). It was submitted that the sale proceeds from shares were deposited in a account held with Standard Chartered Bank and out of such amount the assessee had invested in mutual funds. As it appears from the order of learned Commissioner (Appeals), she disbelieved assessee's explanation regarding the source of investment in mutual funds primarily due to the fact that the assessee failed to furnish the Bank account wherein the sale proceeds of shares were credited. In this regard, the contention of the assessee is, since it related to a pretty old period it was not readily available with the assessee, hence, could not be furnished. In my view, if the assessee through other cogent and corroborative evidences can prove the source of investment in mutual funds, non furnishing of Bank account should not be an impediment in accepting assessee's explanation. Moreover, assessee's claim of consideration received from sale of shares having been invested in mutual funds, being routed through the Bank account, could also have been enquired into by the Departmental Authorities from the concerned Bank. In view of the aforesaid, I am inclined to restore the issue to the Assessing Officer for fresh adjudication after due opportunity of being heard to the assessee. It is open to the assessee

to furnish all necessary evidences available with it to prove the source of investment in mutual funds. It is also open to the Assessing Officer to conduct independent enquiry with the concerned Bank to verify the authenticity of assessee's claim. With the aforesaid observations, grounds raised by the assessee are allowed for statistical purposes.

8. In the result, appeal is allowed for statistical purposes.
Order pronounced in the open Court on 13.09.2019

Sd/-
SAKTIJIT DEY
JUDICIAL MEMBER

MUMBAI, DATED: 13.09.2019

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Mumbai City concerned;
- (5) The DR, ITAT, Mumbai;
- (6) Guard file.

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai