

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri Shamim Yahya (AM)

I.T.A. No. 4839/Mum/2018 (Assessment Year 2014-15)

Mariam Ebrahim Darvesh Hoor Manzil, 7 Perry Cross Road, Bandra, Mumbai-50. PAN : AAEPD7537M (Appellant)	Vs.	DCIT, CC-8(2) Earnest House Nariman Point Mumbai-400 021. (Respondent)
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Assessee by	None
Department by	Shri Chaitanya Anjaria
Date of Hearing	22.08.2019
Date of Pronouncement	18.11.2019

ORDER

This appeal by the assessee is directed against the order dated 01.06.2018 and pertains to A.Y. 2014-15.

2. The issue raised is as under :-

On the facts and circumstances of the case and in law, the Learned CIT(A)-50 has erred in upholding addition to the extent of Rs. 800,499/- made by the Learned AO on account of alleged undisclosed jewellery, which was purchased by her son Torrab Darvesh, although the evidence of purchase in the form Invoice, bank statements from which payment was made and copies of her son's wealth tax returns and Balance sheets was submitted to the Learned AO and the Learned CIT(A)-50, by wrongly holding as under "I have gone through the statement of Mrs. Mariam Darvesh recorded on 25.4.2014 u/s. 132(4) of the Act. A perusal of the Q. No. 5, and its answer clearly reveals that all family members are assessed to wealth tax and has been regularly filing wealth tax return. It is an undisputed fact that the jewellery added by the A.O. amounting to Rs. 9,47,659/- is not reflected in wealth tax returns of any of the family members and could not be reconciled at the time of the search" despite the fact that source of purchase and Balance Sheet of the appellant's son was filed with the Learned AO and CIT(A)-50.

2. Hence, the addition of Rs 800499/- wrongly upheld by the Learned CIT(A) be deleted."

3. Brief facts of the case are that there was search and seizure action in the case of associate group. The Assessing Officer in the assessment order referred to the statement of Smt. Mariam E. Darvesh (the assessee) by referring to some of the statements the Assessing Officer concluded as under :

“It is clear from the statement that Smt. Mariam Ebrahim Darvesh could not substantiate the source of silver and diamond jewellery valued at Rs. 9,47,659 and the same was stated as unaccounted and was offered as unaccounted income. It is also noted that the assessee had submitted pay order of Rs. 9,47,659 in favour of DIT (Inv.)-II, Mumbai for the unaccounted silver and diamond jewellery. However the assessee has not offered the same in the return filed u/s 153C of the Income Tax Act, 1961 and has clearly retracted from the statement u/s 132(4) of the Income Tax Act, 1961 dt. 25.04.2014.

The assessee was required to show cause why the amount of Rs. 9,47,659 should not be treated as unaccounted investments not fully disclosed in books of accounts u/s 69B of the Income Tax Act, 1961. The assessee's explanations have been considered. However considering the facts on record an amount of Rs. 9,47,659 is treated as unaccounted investments not fully disclosed in books of accounts u/s 69B of the Income Tax Act, 1961 and is added in the total income of the assessee for A.Y. 2014-15.”

4. In this regard the assessee had explained that there was no escapement of income on account of the then un-reconciled jewellery as the same was out of declared income of her son and her husband. Bills of jewellery, bank statement of her son and computation of income of her husband of Rs. 1,47,159/- was filed. The assessee also filed paper book along with the submissions wherein the bank account of her son, copies of bills of jewellery, which inter alia included a bill for the item at serial No. D-2 of the value of Rs. 8,00,005/- was filed.

5. However, learned CIT(A) upon assessee's appeal held that the jewellery added by the Assessing Officer is not reflected in the wealth tax return of any of the family members. However, learned CIT(A) granted relief for the sum of Rs. 1,47,160/- disclosed by her husband and confirmed the balance addition.

6. Against this order, assessee is in appeal before the ITAT.

7. I have heard learned Departmental Representative and perused the records. None appeared on behalf of the assessee despite notice. Now, I note that in the grounds and submission before the authorities below it is the contention of the assessee that the impugned purchases of Rs. 8,00,499/- was duly reflected and the sources of purchase, bills, bank account and balance sheet of the assessee's son was duly filed. Hence it has been submitted that the addition is totally uncalled for. These have not at all been disputed but not considered by learned CIT(A).

8. Upon careful consideration and hearing learned Departmental Representative, I find considerable cogency in the claim of the assessee. It is undisputed that the jewellery purchased of Rs. 8,00,499/- was reflected in the account of the son, copy of bills of jewellery was also shown. In these circumstances same cannot be said to be undisclosed merely on the ground that no wealth tax return was furnished. Accordingly, I set aside the orders of the authorities below and delete the addition.

9. In the result, this appeal of the assessee is allowed.

Order has been pronounced in the Court on 18.11.2019.

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 18/11/2019

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

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