

आयकर अपीलिय अधिकरण, 'सी' (एस एम सी) न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'C' (SMC) BENCH, CHENNAI  
श्री जॉर्ज माथन, न्यायिक सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.: 1430 / CHNY / 2019

निर्धारण वर्ष / Assessment Year: 2014-15

Shri Rajarun Sadasivan,  
16, 2<sup>nd</sup> Trust Line Street,  
Mandaveli,  
Chennai – 600 028.

v. The Income Tax Officer,  
Non-Corporate Ward – 2(3),  
Chennai.

**PAN : DSHPS7904H**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri T. Vasudevan, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Smt. S.Vijayaprabha, JCIT

सुनवाई की तारीख/Date of Hearing

: 15.06.2020

घोषणा की तारीख/Date of Pronouncement

: 15.06.2020

**आदेश / O R D E R**

This is an appeal filed by the assessee against the order of the learned Commissioner of Income Tax (Appeals) - 2, Chennai in ITA No.266/2016-17 dated 11.02.2019 for the assessment year 2014-15.

2. Shri T. Vasudevan, Advocate represented on behalf of the assessee and Smt. S. Vijayaprabha, JCIT represented on behalf of the Revenue.

3. It was submitted by the Ld.AR that the only issue in the assessee's appeal is against the action of the Ld.CIT(A) in confirming the addition of Rs.10 lakhs representing gifts received by the assessee from his parents of Rs.5 lakhs each. It was a submission that the assessee and his parents were partners in a partnership firm doing the business of real estate in the name and style of M/s. Vedic Partners. The Ld.AR drew my attention to the paper-book filed, wherein he has submitted that the return copy of the partnership firms shows the capital account of the assessee and his parents, wherein the gift of Rs.5 lakhs each to the assessee has been recorded. It was a further submission that the capital account of the assessee also records the gift he has received from his parents. It was the submission that the assessee had deposited the amount of Rs.10 lakhs on three dates being Rs.5 lakhs on 02.08.2013, Rs. 1 lakh on 06.08.2013 and Rs.4 lakhs on 24.01.2014. It was a submission that the amounts were withdrawn from the bank account of the partnership firm on four dates being Rs.2 lakhs on 15.06.2013, another Rs.2 lakhs on 02.07.2013, Rs.5 lakhs on 12.07.2013 and Rs.1.5 lakhs on 08.08.2013. It was a submission that the said withdrawals were duly debited to the capital account of the two partners, who had gifted the amount to the assessee. It was a submission that the Assessing Officer had disbelieved the claim of the assessee and made the addition. It was a further submission that the Ld.CIT(A) had dismissed the assessee's appeal by holding that the gift

was against human probabilities. It was a submission that the gift received by the assessee has been recorded in the accounts of the partnership firm. The amounts have been reduced from the capital accounts of the partners. The withdrawal of the money from the bank account was also not been disputed and the deposit in the assessee's account was after the date of withdrawal from the bank account of the firm. It was a submission that the addition made by the Assessing Officer and confirmed by the Ld.CIT(A) was liable to be deleted.

4. In reply, the Ld.DR drew my attention to the assessment order at pages 3 and 4 in para No.6.6. It was a submission that there was absolutely no correlation between the dates of withdrawal of money and the payment of cash. It was a further submission that as recorded by the Assessing Officer, there were no entries in the cash book of the firm. It was a submission that no evidence has been produced to show that the assessee had actually received the said gifts from the parents. It was a submission that the said amount of Rs.10 lakhs is actually the unexplained cash of the assessee and the same had been rightly added by the Assessing Officer and confirmed by the Ld.CIT(A).

5. I have considered the rival submissions through video conference. On perusal of the assessment order shows that in para 6.6, the Assessing Officer recognizes that the origin or the source is the

bank withdrawal of the assessee and it was stated that the same were given to the firm and from the firm, amount was given to him by his parents. In sub-para (ii), the Assessing Officer says that the assessee did not satisfactorily explain the nature of the payments made to the firm. In sub-para (ii), the Assessing Officer further questions that when cash gift is made, there must be physical movement of funds, whereas in the present case there is only a mere book entry. This para is in contradiction to sub-para (i). In sub-para (iii), the Assessing Officer questions when the assessee has enough balance in his cash book, why he needed to channelize a lump sum payment of Rs.5 lakhs to the firm on one day and the firm pays the same in the form of gift through another partner. This sub-para again is a contradiction to the earlier sub-paras. In sub-para (iv), the Assessing Officer questions the routing of the funds to the firm and further goes on to say that there would be payment entry of cash to the partners from the firm's cash book. Again there is contradiction. The perusal of the dates on which the cash is withdrawn from the firm as extracted earlier, when considered with the dates on which the amounts have been deposited in the assessee's bank account which has also been extracted earlier and which is also available in para 6.1 of the assessment order clearly shows that the deposits are much after the dates of withdrawals. Even as far as the assessment order, the Assessing Officer does recognize that the withdrawals are recorded. It is the evidence of the physical

movement of funds that is being questioned by the Assessing Officer. The fact that the amounts have been withdrawn and nothing has been found to show that these funds which had been withdrawn had been used for any other purpose, the claim of the assessee that these funds have been gifted to him from his parents cannot be doubted. In these circumstances, I'm of the view that the gifts of Rs.5 lakhs each received by the assessee from his parents are actually the withdrawals made by the parents from the partnership firm M/s. Vedic Partners. Consequently, the addition as made by the Assessing Officer and sustained by the Ld.CIT(A) stands deleted.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 15<sup>th</sup> June, 2020 at Chennai.

Sd/-  
(जॉर्ज माथन)  
(George Mathan)  
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,  
दिनांक/Dated, the 15<sup>th</sup> June, 2020

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT    | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF.            |