

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCH VC 'A', JAIPUR

श्री विजय पाल रॉव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष  
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 908/JP/2019  
निर्धारण वर्ष/Assessment Year : 2010-11.

Amit Agarwal c/o R.S. Poonia, 611, Fifth Floor, Apex Mall, Lal Kothi, Tonk Road, Jaipur.	बनाम Vs.	The Income Tax Officer, Ward 4(2), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AMRPA 3762 E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : None  
राजस्व की ओर से / Revenue by : Ms Chanchal Meena (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 18.08.2020.  
घोषणा की तारीख / Date of Pronouncement : 20/08/2020.

आदेश / ORDER

PER VIJAY PAL RAO, JM :

This appeal by the assessee is directed against the order dated 23<sup>rd</sup> April, 2019 of Id. CIT (A)-2, Jaipur for the assessment year 2010-11. The assessee has raised the following grounds :-

1. Under the facts and circumstances of the case notice issued u/s 148 is illegal and bad in law, kindly quash the entire proceedings.
2. Under the facts and circumstances of the case the Id. CIT (Appeals) has erred in law and facts in confirming the addition of Rs. 5,00,000/-. Kindly delete the entire addition of Rs. 5,00,000/-.
3. Under the facts and circumstances of the case the Id. CIT (Appeals) has erred in law and facts in confirming the addition of Rs. 68,000/-. Kindly delete the entire addition of Rs. 68,000/-.

4. The appellant craves leave to add, to alter, amend, modify, substitute, delete and/or rescind all or any of the grounds of appeal on or before the final hearing, if necessity so arises.

2. None has appeared on behalf of the assessee when this appeal was called for hearing through Video Conference due to prevailing condition of COVID 19 pandemic. The assessee has requested through e-mail communication for adjournment of the hearing on the ground that the assessee wish to opt for Vivad Se Vishwas Scheme.

3. We have heard the Id. D/R and carefully perused the impugned orders passed by the AO as well as the Id. CIT (A). The AO has made the addition on account of unexplained investment in FDR of Rs. 5,00,000/- after rejecting the explanation of the assessee that the said amount was received by the assessee as gift from his mother. The Id. CIT (A) has confirmed the addition made by the AO on the ground that due to the gap of 2 years between the property sold by the mother and alleged gift received by the assessee the explanation is not justified. Since the assessee has claimed the source of deposit as FDR as gift received from the mother and also produced the evidence for sale of property by the mother, therefore, the gap of 2 years is required to be explained by the assessee. Accordingly, in the facts and circumstances of the case, when the assessee intends to opt for Vivad Se Vishwas Scheme, we set aside the impugned order of the Id. CIT (A) and remand the matter to the record of the Id. CIT (A) for granting one more opportunity to the assessee to explain the gap of 2 years between the sale of property by the mother and gift given

to the assessee. Status of the assessee's appeal will remain pending before the Id. CIT (A) as against before this Tribunal, therefore, the assessee may opt for the Vivad Se Vishwas Scheme, if so desired.

4. In the result, appeal of the assessee is allowed for statistical purposes.

Order is pronounced in the open court on 20/08/2020.

Sd/-  
(विक्रम सिंह यादव)  
(VIKRAM SINGH YADAV )  
लेखा सदस्य/Accountant Member

Sd/-  
(विजय पाल राँव )  
(VIJAY PAL RAO)  
न्यायिक सदस्य/Judicial Member

Jaipur

Dated:- 20/08/2020.

Das/

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

1. The Appellant- Shri Amit Agarwal, Jaipur.
2. The Respondent – The ITO Ward 4(2), Jaipur.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 908/JP/2019)

आदेशानुसार/ By order,

सहायक पंजीकार/ Assistant. Registrar