

**आयकर अपीलीय अधिकरण न्यायपीठ जोधपुर में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**JODHPUR BENCH**

**माननीय श्री संदीप गोसाईं, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JM AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**(Hearing Through Video Conferencing Mode)**

आयकर अपील सं./ I.T.A. No.352/Jodh/2018

(निर्धारणवर्ष / Assessment Year: 2015-16)

<b>Shri Manohar Lal Sindhi</b> C/o.Rajendra Jain Advocate 106, Akshay Deep Complex 5th B Road, Sardarpura, Jodhpur Rajasthan-342 001.	<b>बनाम/</b> Vs.	<b>Income Tax Officer-Ward-3</b> Bhilwara Rajasthan
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. <b>AHNPS-4432-Q</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Ms. Raksha Birla (CA) & Shri Rajendra Jain (Advocate)-Ld.ARs.
<b>Revenue by</b>	:	Shri A.S. Yadav- Ld. Sr. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	05/11/2020
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	21/12/2020

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member): -**

1. Aforesaid appeal by assessee for Assessment Year [in short referred to as 'AY'] 2015-16 contest the order of Ld. Commissioner of Income-Tax-(Appeals), Ajmer, [in short referred to as 'CIT(A)],

Appeal No.435/2017-2018 dated 28/05/2018 on following effective grounds:-

- 1) That on the facts and in the circumstances of the case, the Id CIT (A) grossly erred in sustaining the addition of Rs.3,51,6307- on account of unexplained expenditure u/s 69C of the Act.
- 2) That on the facts and in the circumstances of the case, the Id CIT (A) grossly erred in rejecting the explanation of the assessee in respect of source of expenditure which were supported from documentary evidences.
- 3) That on the facts and in the circumstances of the case, the Id CIT (A) grossly erred in upholding the application of provision of section 115BBE of the Act.

As evident, the assessee is aggrieved by confirmation of certain addition u/s 69C for Rs.3.51 Lacs.

2. We have carefully heard the rival submissions and perused relevant material on record including written submissions and documents placed in the paper book. The judicial precedents as relied upon during the course of hearing have duly been deliberated upon. Our adjudication to the subject matter would be as given in succeeding paragraphs.

3.1 The assessee being resident individual was assessed u/s. 143(3) on 22/12/2017 wherein it was saddled with an addition of Rs.3,51,630/- as unexplained expenditure u/s.69C. During assessment proceedings, an immovable property in the shape of a residential house situated at Azad Mohalla, Bhilwara was found to be registered in the name of the assessee by the Sub-Registrar, Bhilwara under a gift deed. On perusal of the gift deed, it was noticed that stamp duty, other charges of registry amounting to Rs.4,20,130/- were borne by the assessee for execution of the

above mentioned gift deed. Accordingly, the assessee was required to establish the source of payment.

3.2 The assessee submitted that an amount of Rs.2 Lacs was borne by assessee's wife whereas the balance amount was borne by the assessee himself out of past savings. But the assessee's wife did not file return of income till AY 2015-16. Finally, a sum of Rs.70,000/- was considered as savings of earlier years and balance Rs.3,51,630/- was added to assessee's income u/s.69C as unexplained expenditure. The same would be taxable at maximum marginal rate in terms of provisions of Section 115BBE(1)(a). of the Act.

4. Before Ld. CIT(A), the assessee maintained the same position and drew attention to the affidavit of assessee's wife filed as supporting evidence. However, Ld. CIT(A) opined that there was no evidence that the assessee's wife had cash in hand of Rs.2 Lacs at the time of registration of property and therefore, the additions were to be confirmed. Aggrieved, the assessee is in further appeal before us.

5. Upon careful consideration, we find that it is the contention of the assessee that an amount of Rs.2 Lacs was sourced out of past savings maintained by the assessee's wife. In support, an affidavit from assessee's wife was also filed, a copy of which is on record. While admitting the aforesaid payment, it has been affirmed by the wife that the money was saved out of gifts received from parents /close relatives on the occasion of marriage as well as thereafter from time to time. The said practice is not uncommon keeping in

view the social fabric of the society and the same could not be brushed aside altogether. The assessee is stated to be married since 1985. Keeping in view the fact that amount advanced was only Rs.2 Lacs, the explanation furnished by the wife was to be accepted. So far as the non-filing of return is concerned, the law does not obligate a person to file the return unless the income exceeds certain threshold limit. Apparently, the assessee's wife has no other source of income. Therefore, in the absence of any adverse material, the explanation was to be accepted.

Similarly, the assessee is an Income Tax Assessee since past 7 years. He is aged 53 years and stated to be earnings since past 33 years and therefore, it could safely be presumed that the amount of Rs.2.21 Lacs was sourced out of past savings. In fact, the return for the year has been filed at Rs.1.18 Lacs. The accepted figure of Rs.0.70 Lacs was only an estimated figure without looking into the capital account furnished by the assessee.

Therefore, in view of forgoing, we are inclined to delete the impugned additions. We order so.

6. In nutshell, the appeal stands allowed.

*Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal)  
 Rules, 1963.*

**Sd/-**  
**(Sandeep Gosain)**  
 न्यायिक सदस्य / **Judicial Member**

**Sd/-**  
**(Manoj Kumar Aggarwal)**  
 लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 21/12/2020  
 Sr.PS:-Jaisy Varghese

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Jodhpur
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, जोधपुर / ITAT, Jodhpur.**