

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES 'B' JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI SANDEEP GOSAIN, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA No. 398/JP/2018
निर्धारण वर्ष/Assessment Year :2010-11

Sheela Yogi, 201, Vijay Laxmi Tower, Central Spine, Vidhyadhar Nagar, Jaipur	बनाम Vs.	ITO, Ward-4(2), Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No. ABTPY9381L		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Sh. Vedant Agarwal (Adv.)
राजस्व की ओर से / Revenue by : Smt. Runi Pal (JCIT)

सुनवाई की तारीख / Date of Hearing : 09/11/2020
उदघोषणा की तारीख / Date of Pronouncement: 02/02/2021

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A), Ajmer dated 22.01.2018 wherein the assessee has raised the following grounds of appeal:

"1. On the facts & circumstances of the case and in law also Ld. CIT(A) grossly erred in not accepting the additional evidences filed before him under rule 46A of the Income Tax Act, 1962.

2(i) On the facts & circumstances of the case and in law also Id. Lower authorities grossly erred in initiating reassessment proceedings u/s 147 of the Act.

(ii) On the facts & circumstances of the case and in law also Ld. AO grossly erred in initiating reassessment proceedings on borrowed satisfaction only.

3. On the facts & circumstances of the case & in law also Ld Lower authorities grossly erred in making and confirming a huge addition of Rs. 45,33,000/- under section 68 of the Income Tax Act 1961 by adding advances received by the appellant. The Ld. Lower Authorities has failed in considering the fact that entire detail regarding advance received by the appellant was submitted during assessment proceedings and ld. AO has not pointed any defect in the same.

4. On the facts & circumstances of the case & in law also Ld. Lower authorities grossly erred in making and confirming adding of Rs.8,02,000/- u/s 68 of the Income Tax Act by adding the cash gift received by the appellant from relatives despite of the fact that complete evidence of gift received was submitted during the assessment proceedings.

5. On the facts & circumstances of the case and in law also ld. AO grossly erred in finalizing the reassessment proceedings without issuing and serving notice u/s 143(2) of the Income Tax Act, 1961."

2. At the outset, the ld AR submitted that the assessee doesn't want to press ground no. 1, 2 and 5. Hence, these grounds of appeal are dismissed as not pressed by the assessee.

3. Regarding Ground no. 3 and 4, the ld AR submitted that the ld. AO made the addition of Rs. 53,35,000/- u/s 68 of the Income Tax Act by treating advances and gifts as unexplained cash credits vide order dated 27.03.2015. The Ld. CIT(A) confirmed the addition vide order dated

22.01.2018. It was submitted that the assessee during the relevant assessment year purchased an agricultural land measuring 1.8125 hectares situated at village Ghegha for Rs. 1,07,00,000/- from one Smt. Sunder Devi. The assessee had received money from nine persons as advance for sale of another agricultural land. The list of persons from whom the assessee had received the advance is as follows:

S. No.	Name	Amount
1	Govind Narain	2,51,000/-
2	Goru Ram Jat	5,51,000/-
3	Rajveer Singh Meena	5,00,000/-
4	Sheoji Ram Gurjar	5,80,000/-
5	Shiv Ram Jat	5,51,000/-
6	Ramesh Kumar Saini	5,00,000/-
7	Om Prakash Saini	5,00,000/-
8	Kailash Chand Saini	5,50,000/-
9	Kamal Kishore	5,50,000/-
10	PG Network Market Pvt. Ltd.	50,00,000/-

4. It was submitted that the assessee had also received a gift of Rs. 5,51,000 from her father in law and another gift of Rs. 2,51,000 from her father. That the said agricultural land could not be sold to nine farmers as they could not pay the remaining amount. The assessee used these advances and gifts to make the payment for the land purchased. That all of the aforementioned persons from whom the aforementioned advances were received submitted affidavits and confirmations. The Ld. AO even issued summons and recorded statements u/s 131 of the Income Tax Act. For the company i.e. PG Network Market Pvt. Ltd., the Ld. AO sought necessary confirmation and documents through Section 133(6) of the Income Tax Act. That all the persons accepted and confirmed that

they have given the money to the assessee in their statements. Therefore, there is no doubt with respect to their identity and the genuineness of the transaction. As far as PG Network Market Pvt. Ltd is concerned, the Ld. AO was satisfied after looking at the documents and did not treat that advance as unexplained cash u/s 68 of the Income Tax Act. The Ld. AO treated the rest of the advances as unexplained cash credit u/s 68 of the Income Tax Act, as the Ld. AO was not satisfied as to the creditworthiness of these persons. The Ld. AO did not even accept the gifts received from her father and father in law and treated the same as unexplained cash credits u/s 68 of the Income Tax Act which was confirmed by the Id CIT(A).

5. In the aforesaid factual background, it was submitted that where very reasons for which case of the assessee was reopened u/s 148 doesn't survive as no additions were made u/s 69, then addition for other transactions under section 68 cannot be made. It was submitted that the assessee has purchased an agricultural land for a consideration of Rs. 1,07,00,000/- and given the meagre sources of income, the Assessing Officer was having reasons to believe that amount of Rs. 1,07,00,000/- invested in purchase of immovable property has escaped assessment. It was submitted that where the AO was not satisfied with the explanation offered by the assessee, the addition could have been made u/s 69 of the Act as unexplained investment, however, no additions were made u/s 69 of the Act. It was submitted that where no additions have been made u/s 69, then in such circumstances, no further addition can be made in respect of any other income as done in the instant case where the additions have been made u/s 68 as unexplained cash credit and in support, reliance was placed on Hon'ble Rajasthan High Court decision in case of CIT vs Shri Ram Singh [2008] 217 CTR 345.

6. It was further submitted that even where it is held that additions in respect of other income can be made in the hands of the assessee, from the plain reading of the assessment order dated 27.03.2015 and appellate order dated 22.01.2018, it is clear that there is no doubt with respect to genuineness of the second transaction where the assessee has received the advance towards the sale of another agriculture land and identity of the persons who are agriculturists and who have agreed to purchase the land. However, the Ld. AO as well as the Ld. CIT(A), both have stated that there is no evidence with respect to the creditworthiness of the these persons. It was submitted that the basic meaning of 'creditworthiness' is the capacity to advance money and the law nowhere states that the same has to be proven by furnishing of bank account statements and PAN. If a person does have a PAN and Bank Account, it does not automatically mean, he is creditworthy to advance money. It was submitted that the Ld. AO as well as the Ld. CIT(A) both failed to rely on the facts revolving around these nine farmers from whom the advances have been received and who had appeared before the AO and their statements were recorded during the course of reassessment proceedings and beyond ensuring their personal appearance before the AO, it was not possible for the assessee to prove their creditworthiness with any further evidence as most of these people were farmers not having PAN as well as bank accounts. That the Ld. AO as well as the Ld. CIT(A) should have considered that every person has given a statement with regards to their yearly earnings and as to why they wanted to purchase the said land. That the Ld. AO as well as the Ld. CIT(A) should have considered that the amount that has been received by the assessee is not a large sum if we consider individual transactions. If these farmers are not having bank accounts, having 5 lakh in cash in hand is a reasonable amount which any person can keep for his household needs. That every person in their statement has stated the source of

funds out of which the amount was given to the assessee. It was submitted that that there are only 7 to 9 crore people (approx.) who are filing ITRs and having PAN in the country as of now. And all citizens of the country did not have a bank account before the implementation of PM Jan Dhan Yojana, will the department treat all the transactions with such people as non-genuine transactions? That most of these people are having sizeable irrigated agricultural land and they grow vegetables which are cash rich crops. That the Ld. AO did not point out any fault and discrepancies within the statements recorded. He did not even record any dissatisfaction from their responses. That if the Ld. AO was not satisfied with the statements of these people, then he should have categorically recorded his dissatisfaction in that regard. He cannot merely make an addition u/s 68 of the Income Tax Act on the basis of non-production of PAN and Bank Account Statements. That even otherwise it is a settled law that the assessee is not required to prove the source of source u/s 68 of the Income Tax Act, 1961 and reliance was placed on the Hon'ble Rajasthan High Court's decision in case of CIT v. Bhim Singh Chundawat (2016) SCC Online Raj 3103. That when these people have accepted the transactions, have appeared before the Ld. AO, and have answered all the questions satisfactorily, then the addition made u/s 68 of the Income Tax Act, 1961 is unlawful. That in regards to the money received as gift from father and father-in-law, it was submitted that both the gift deeds were submitted before the Ld. AO. However, the Ld. AO in his order stated that only one gift deed i.e. the one from the father-in-law was submitted. That the assessee again submitted the gift deeds before the Ld. CIT(A), however, the Ld. CIT(A) did not consider the other gift deed. That the addition under Section 68 is arbitrary and unlawful as assessee did not maintain any books of accounts and as per Section 68 of the Income Tax Act, for it to be applicable, maintaining books of accounts is a condition

precedent and in support, reliance was placed on CIT v. Bhaichand N Gandhi 141 ITR 67 (Bom) and other decisions. It was accordingly submitted that the additions so made by the AO be directed to be deleted.

7. Per contra, the Id DR submitted that it is a case where the notice u/s 148 was issued to verify the source of investment in purchase of the agriculture land as the AO had a reason to believe that income to that extent has escaped assessment. It was submitted that the assessee has challenged the reopening u/s 147 before the Id CIT(A) who had dismissed the said ground of appeal and before the Tribunal, the assessee has not pressed the said ground. Therefore, as far as assumption of jurisdiction u/s 147 is concerned, the same has attained finality. It was submitted that during the course of reassessment proceedings, the assessee was asked to explain the source of investment and in response, the assessee has submitted that she has received the advance from these nine persons and one company. The AO has recorded a finding that these nine persons presented by the assessee do not have the financial network to purchase such an expensive piece of land and the assessee failed to prove the creditworthiness of these persons and the additions have rightly been made by the AO u/s 68 and confirmed by the Id CIT(A). It was submitted that though the AO has invoked section 68, the addition has been made towards unexplained investment in purchase of agriculture land as the explanation offered by the assessee was not found satisfactory. Similarly, in respect of two donors, the assessee failed to prove the creditworthiness of these persons and the additions have rightly been made by the AO u/s 68 and confirmed by the Id CIT(A). The Id DR accordingly relied on the findings of the lower authorities.

8. We have heard the rival contentions and perused the material available on record. In this case, the assessee has originally filed her return of income on 23.05.2011 which was processed u/s 143(1) of the Act. Subsequently, notice u/s 148 was issued on 14.11.2013. On perusal of the assessment order, we find that the reasons for reopening the assessment was that the assessee has purchased an agricultural land situated at village- Ghegha, Patwar region- Awania, Inspecting Area Bagru Kalan, Tehsil- Sanganer, Distt. Jaipur for a consideration of Rs. 1,07,00,000/- on 21/12/2009 from Smt. Sunder Devi w/o Shri Shawan Keer. Given that the assessee was having meager source of income and not expected to make such huge investment, the Assessing Officer was having reasons to believe that amount of Rs. 1,07,00,000/- invested in purchase of immovable property has escaped assessment.

9. We therefore, find that the reason for reopening were to verify source of investments towards purchase of the agricultural land amounting to Rs. 1,07,00,000/-. During the course of assessment proceedings, the assessee was asked to furnish details regarding source of the investments. In response, the assessee submitted that she has received advance of Rs. 50,00,000/- from M/s P. G. Way Network Marketing Pvt. Ltd. to whom notice u/s 133(6) was issued and in response, the said company submitted its necessary confirmation along with audited balance-sheet, bank statement and other evidence which was found satisfactorily explained by the Assessing Officer. The assessee also submitted that she has received a sum of Rs. 45,33,000/- from nine agriculturists as advance towards sale of another agricultural land and the said money was used for purchase of the impugned agricultural land which is subject matter of notice u/s 148 of the Act. During the course of assessment proceedings, the summons were issued u/s 131 and statement of these agriculturists were recorded by the

Assessing Officer. The Assessing Officer however held that these agriculturist do not have any financial networth for purchase of such expensive piece of land and therefore, their credit worthiness could not proved and the amount of Rs. 45,33,000/- was treated as unexplained cash credit u/s 68 of the Act. Further, the assessee submitted that she has received gift of Rs. 2,51,000/- from her father and Rs. 5,51,000/- from her father-in-law and a copy of gift deeds were submitted during the course of assessment proceedings, however, for the reason that the financial networth of the doners was not proved, the amount of Rs. 8,02,000/- was also treated as unexplained cash credit u/s 68 of the Act which on appeal has been confirmed by the Id. CIT(A).

10. We therefore find that the reasons for initiating the reassessment proceedings were in relation to examination of source of investments in purchase of agricultural land amounting to Rs. 1,07,00,000/- and where the explanation offered by the assessee was not found satisfactory, the addition could have been made u/s 69 of the Act which reads as under:-

"69. Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year."

11. During the course of assessment proceedings, the assessee explained the source of such investment as amount received as advance towards sale of another agriculture land and receipt of gifts. We therefore

find that there are two independent transactions one is purchase of agricultural land by the assessee amounting to Rs. 1,07,00,000/- and the second is of the sale of agricultural land by the assessee amounting to Rs. 45,33,000/-. Advance received from the second transaction has been claimed to be utilized towards discharge of consideration towards the first transaction of purchase of the agricultural land and to that extent, these two transactions can be said to be connected, however, retain their respective attributes and character. The Assessing Officer has not made any addition towards unexplained investments u/s 69 of the Act in respect of which the reason for escapement of income were recorded and notice u/s 148 was issued, however, he has brought the second set of transactions to tax as unexplained cash credit u/s 68 of the Act which reads as under:

"68. Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year."

12. We therefore, find that these are two independent transactions of purchase and sale of agricultural land and where no addition has been made by the Assessing Officer towards unexplained investment u/s 69 for which the notice has been issued u/s 148 of the Act, and thus, the very basis for reassessment doesn't exist anymore, it is a settled legal proposition that the Assessing officer cannot travel beyond and extend his jurisdiction and bring to tax others transactions to tax u/s 68 of the Act during such reassessment proceedings where the invocation of these two

sections is in entirely different set of circumstances as it clear from the wordings of these two sections. In this regard, useful reference can be drawn to the decision of **Hon'ble Rajasthan High Court** in case of **CIT vs Shri Ram Singh** (Supra) wherein it was held as under:

"24. Reverting back to language of section 147, this much is clear, that the sine qua non for conferment of jurisdiction on the AO, to initiate proceedings under that section is, that he should have "reason to believe" that "any income chargeable to tax has escaped assessment for any assessment year" and that, being that situation, being available, i.e., the AO having entertained a "reason to believe", obviously on valid grounds, he acquires the jurisdiction to assess or reassess "such income", which obviously means, the income, which was chargeable to tax, and had escaped assessment for any assessment year, according to his "reason to believe", and while so assessing or reassessing, he can also, in addition, assess or reassess "any other income chargeable to tax which has escaped assessment and which may come to his notice subsequently in the course of proceedings under section 147".

25. The precise question, thus requiring to be considered is, as to whether, the conjunctive word used, being "and", used between the expression "such income" and "also any other income chargeable to tax, which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under section 147" is required to be given its due, or is required to be ignored, or is required to be interpreted as "or". Obviously because, if it is to be interpreted as "or", then the language would read as under:

"147. If the AO has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income or also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or re-compute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year)."

26. But then if it were to be so read, the word "also" becomes redundant, and to make sense of the sentence, the section would be required to be read by ignoring the words "also", as well, in which event, the section would read as under:

"147. If the AO has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income or any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or re-compute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year)."

27. It is established principle of interpretation of statutes, that the Parliament is presumed to be not extravagant, in using the words,

and therefore, every word used in the section, is required to be given its due meaning.

28. If considered on that principle, leaving apart for the moment, the aspect of interpretation of the word "and" as "or", the existence of the word "also" is of a great significance, being of conjunctive nature, and leaves no manner of doubt in our opinion, that it is only when, in proceedings under section 147 the AO, assesses or reassesses any income chargeable to tax, which has escaped assessment for any assessment year, with respect to which he had "reason to believe" to be so, then only, in addition, he can also put to tax, the other income, chargeable to tax, which has escaped assessment and which has come to his notice subsequently, in the course of proceedings under section 147.

29. To clarify it further, or to put it in other words, in our opinion, if in the course of proceedings under section 147, the AO were to come to conclusion, that any income chargeable to tax, Which, according to his "reason to believe", had escaped assessment for any assessment year, did not escape assessment, then, the mere fact, that the AO entertained a reason to believe, albeit even a genuine reason to believe, would not continue to vest him with the jurisdiction, to subject to tax, any other income, chargeable to tax, which the AO may find to have escaped assessment, and which may come to his notice subsequently, in the course of proceedings under section 147."

13. The decision of the Hon'ble Rajasthan High Court has thereafter been followed by the **Hon'ble Bombay High Court** in case of **CIT vs. Jet Airlines India Pvt. Ltd** (2010) 195 Taxmann 117 wherein after considering the explanation 3 to section 147, it was held that Explanation 3 does not and cannot override the necessity of fulfilling the conditions set out in the substantive part of section 147 and the decision of the Hon'ble Rajasthan High Court continues to hold the field and the relevant findings read as under:

"14. The second line of precedent is reflected in a judgment of the Rajasthan High Court in CIT v. Shri Ram Singh [2008] 306 ITR 343 . The Rajasthan High Court construed the words used by Parliament in section 147 particularly the words that the Assessing Officer 'may assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings' under section 147. The Rajasthan High Court held as follows :

". . . if is only when, in proceedings under section 147 the Assessing Officer, assesses or reassesses any income chargeable to tax, which has escaped assessment for any assessment year, with respect to which he had "reason to believe" to be so, then, only in addition, he can also put to tax, the other income, chargeable to tax, which has escaped assessment, and which has come to his notice subsequently, in the course of proceedings under section 147.

To clarify it further, or to put it in other words, in our opinion, if in the course of proceedings under section 147, the Assessing Officer were to come to the conclusion, that any income chargeable to tax, which, according to his "reason to believe", had escaped

assessment for any assessment year, did not escape assessment, then, the mere fact that the Assessing Officer entertained a reason to believe, albeit even a genuine reason to believe, would not continue to vest him with the jurisdiction, to subject to tax, any other income, chargeable to tax, which the Assessing Officer may find to have escaped assessment, and which may come to his notice subsequently, in the course of proceedings under section 147."

15. Parliament, when it enacted the Explanation (3) to section 147 by the Finance (No. 2) Act, 2009 clearly had before it both the lines of precedent on the subject. The precedent dealt with two separate questions. When it effected the amendment by bringing in Explanation 3 to section 147, Parliament stepped in to correct what it regarded as an interpretational error in the view which was taken by certain courts that the Assessing Officer has to restrict the assessment or reassessment proceedings only to the issues in respect of which reasons were recorded for reopening the assessment. The corrective exercise embarked upon by "Parliament in the form of Explanation 3 consequently provides that the Assessing Officer may assess or reassess the income in respect of any issue which comes to his notice subsequently in the course of the proceedings though the reasons for such issue were not included in the notice under section 148(2). The decisions of the Kerala High Court in Travancore Cements Ltd.'s case (supra) and of the Punjab & Haryana High Court in Vipin Khanna's case (supra) would, therefore, no longer hold the field. However, insofar as the second line of authority is concerned, which is reflected in the judgment of the Rajasthan High Court in Shri Ram Singh's case (supra), Explanation 3 as inserted by Parliament would not take

away the basis of that decision. The view which was taken by the Rajasthan High Court was also taken in another judgment of the Punjab & Haryana High Court in CIT v. Atlas Cycle Industries [1989] 180 ITR 3191. The decision in Atlas Cycle Industries' case (supra) held that the Asses

sing Officer did not have jurisdiction to proceed with the reassessment, once he found that the two grounds mentioned in the notice under section 148 were incorrect or non-existent. The decisions of the Punjab & Haryana High Court in Atlas Cycle Industries' case (supra) and of the Rajasthan High Court in Shri Ram Singh's case (supra) would not be affected by the amendment brought in by the insertion of Explanation 3 to section 147.-

16. Explanation 3 lifts the embargo, which was inserted by judicial interpretation, on the making of an assessment or reassessment on grounds other than those on the basis of which a notice was issued under section 148 setting out the reasons for the belief that income had escaped assessment. Those judicial decisions had held that when the assessment was sought to be reopened on the ground that income had escaped assessment on a certain issue, the Assessing Officer could not make an assessment or reassessment on another issue which came to his notice during the proceedings. This interpretation will no longer hold the field after the insertion of Explanation 3 by the Finance Act (No. 2) of 2009. However, Explanation 3 does not and cannot override the necessity of fulfilling the conditions set out in the substantive part of section 147. An Explanation to a statutory provision is intended to explain its contents and cannot be construed to override it or render the substance and core nugatory. Section 147 has this effect that the

Assessing Officer has to assess or reassess the income ("such income") which escaped assessment and which was the basis of the formation of belief and if he does so, he can also assess or reassess any other income which has escaped assessment and which, comes to his notice during the course of the proceedings. However, if after issuing a notice under section 148, he accepted the contention of the assessee and holds that the income which he has initially formed a reason to believe had escaped assessment, has as a matter of fact not escaped assessment, it is not open to him independently to assess some other income. If he intends to do so, a fresh notice under section 148 would be necessary, the legality of which would be tested in the event of a challenge by the assessee.

17. We have approached the issue of interpretation that has arisen for decision in these appeals, both as a matter of first principle, based on the language used in section 147(1) and on the basis of the precedent on the subject. We agree with the submission which has been urged on behalf of the assessee that section 147(1) as it stands postulates that upon the formation of a reason to believe that income chargeable to tax has escaped assessment for any assessment year, the Assessing Officer may assess or reassess such income "and also" any other income chargeable to tax which comes to his notice subsequently during the proceedings as having escaped assessment. The words "and also" are used in a cumulative and conjunctive sense. To read these words as being in the alternative would be to rewrite the language used by Parliament. Our view has been supported by the background which led to the insertion of Explanation 3 to section 147. Parliament must be regarded as being aware of the interpretation that was placed on

the words "and also" by the Rajasthan High Court in Shri Ram Singh's case (supra). Parliament has not taken away the basis of that decision. While it is open to Parliament, having regard to the plenitude of its legislative powers to do so, the provisions of section 147(1) as they stood after the amendment of 1-4-1989 continue to hold the field."

14. In light of aforesaid discussions and respectfully following the decisions referred supra and in absence of contrary/superior authority, we find that in the instant case, there are two independent transactions of purchase and sale of land and where there are no additions made u/s 69 towards the source of purchase of land for which the AO issues notice u/s 148, the AO cannot bring to tax the other transaction to tax u/s 68 of the Act.

15. Further, on merits, we find that once the summons have been issued and these persons have appeared and given their statements before the AO wherein they have confirmed that they have advanced the amount to the assessee towards purchase of the agricultural land and has also disclosed the source of their earnings/savings, the assessee has discharged the necessary onus cast on her in terms of identity, creditworthiness and genuineness of the transactions in the facts and circumstances of the present case. Similar is the position regarding receipt of gifts from father and father-in-law which is duly supported by the respective gift deeds, the contents and authenticity of which are not in dispute. In case of **CIT vs Shri Bhim Singh Chundawat (supra)**, the **Hon'ble Rajasthan High Court** held as under:

"4. A bare perusal of the order passed by the CIT(A) reveals that the CIT(A) discussed the creditworthiness and genuineness of each

and every individual transaction and found 13 creditors as genuine. The ITAT has arrived at the finding that the assessee has established the creditworthiness of the creditors to the extent he is obliged under the law to do so. The ITAT found that the creditors have accepted that they had advanced their respective credits to the assessee and also given the details of the sources of the deposit. The ITAT opined that the assessee cannot be burdened with proof of 'source of source' and the cash credit cannot be held to be ingenuine by stretching the ingredients of Section 68 too far. We are of the considered opinion that the findings arrived at by the CIT(A), affirmed by the ITAT regarding identity of the creditors and creditworthiness and genuineness of the transactions remain findings of facts, which do not give rise to any substantial question of law."

16. In the entirety of facts and circumstances of the case, the addition so made is directed to be deleted. In the result, ground no. 3 & 4 of the assessee's appeal are allowed.

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

Order pronounced in the open Court on 02/02/2021.

Sd/-
(संदीप गोसाई)
(Sandeep Gosain)
न्यायिक सदस्य / Judicial Member

Sd/-
(विक्रम सिंह यादव)
(Vikram Singh Yadav)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 02/02/2021

*Ganesh Kr.

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

1. अपीलार्थी / The Appellant- Sheela Yogi, Vidhyadhar Nagar, Jaipur

2. प्रत्यर्थी / The Respondent- ITO, Ward-4(2), Jaipur
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File {ITA No. 398/JP/2018}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar