

आयकर अपीलीय अधिकरण “एफ ” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“F” BENCH, MUMBAI

माननीय श्री अमरजीत सिंह, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI AMARJIT SINGH, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.6022/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2014-15)

&

आयकरअपील सं./ I.T.A. No.6023/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2015-16)

Mrs. Indu Ratilal Patodia 1802/1803, Millennium Grand Plot No.71B, Sector-11 Kharghar, Navi Mumbai – 410 210	बनाम/ Vs.	DCIT CC 1(1), R. No. 903, 9 th floor, Old CGO Building, M. K. Road, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AARPP-5518-P		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Ms. Hiral Sejal– Ld. AR
Revenue by	:	Shri Narendra Jangpangi– Ld. CIT-DR

सुनवाई की तारीख/ Date of Hearing	:	26/07/2021
घोषणा की तारीख / Date of Pronouncement	:	06/08/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1.1 The grievance of the assessee in aforesaid appeals for Assessment Years (AY) 2014-15 & 2015-16 is common. It is admitted position that adjudication of any one appeal shall equally apply to the other appeal also. These appeals were heard on 26/07/2021 along with appeals of other family members of the group since issues were

common. For the purpose of adjudication, the appeal for AY 2014-15 is taken as the lead year which arises out of the order of learned Commissioner of Income-Tax (Appeals)-47, Mumbai [CIT(A)], dated 31/07/2018 in the matter of assessment framed by Ld. Assessing Officer (AO) u/s 143(3) r.w.s. 153A of the Act on 23/12/2016. The assessee is aggrieved by confirmation of certain additions in the impugned order.

1.2 Having heard rival submissions and upon perusal of relevant material on record, our adjudication would be as given in succeeding paragraphs.

2. The material facts are that pursuant to search action on Balaji Group on 28/01/2015, the premises of the assessee were also covered under the search. In response to notice u/s 153A, the assessee offered returned income of Rs.4.33 Lacs which was the same as offered u/s 139(1). The assessee was saddled with various additions which are adjudicated as under: -

3. Gifts

3.1 The assessee received gifts of Rs.0.98 Lacs from her mother-in-law. Another gift of Rs.0.99 Lacs was received from brother-in-law Shri Mahesh G. Patodiya. Both these gifts were added to assessee's income for want of sufficient evidences. The addition, upon confirmation by Ld. CIT(A), is in further challenge before us.

3.2 We find that similar issue of gift from Mrs. Santaben Vashrambhai Patodia has been decided by us in assessee's favor in ITA No.6012/Mum/2018 as follows: -

3.5 Upon perusal of documents on record, we find that the mother of the assessee has declared income of Rs.1.78 Lacs during the year as miscellaneous income. However, upon perusal of her Balance Sheet as on 31/03/2014, as placed on record, it could be seen that she has capital balance of Rs.1287.32 Lacs which

Mrs. Indu Ratilal Patodia
Assessment Years: 2014-15 & 2015-16

has been invested in various forms. This capital balance is arrived at after reducing Gifts of Rs.4.94 Lacs and withdrawals of Rs.10.47 Lacs. The source of gift, in our opinion, could not solely be the current year's income particularly in view of the fact that the mother of the assessee was an old lady and living in a joint family. There is no adverse material to prove the gifts. Therefore, the conclusion drawn by Ld. CIT(A) could not be sustained and we are inclined to delete the addition of Rs.1 Lacs.

Similar addition of gift received from Shri Mahesh G. Patodiya has been deleted by us in ITA No.6018/Mum/2018 as follows: -

3.2 Upon perusal of documents on record, we find that the gift is duly supported by the affidavit of the donor. The donor has declared income of Rs.2.23 Lacs in the return of income. The gift is supported by bank statement of the donor. Thus, gifts are well substantiated. This being so, we delete the impugned addition and allow this ground of appeal.

Facts being pari-materia the same, we delete the impugned addition and allow this ground of appeal.

4. Unsecured Loans

4.1 The assessee obtained unsecured loan of Rs.5.10 Lacs from Smt. Chandrikaben Kiyada. The same was added to the income of the assessee in view of the fact that there was cash deposit in lender's bank account before grant of loan. The addition, upon confirmation by Ld. CIT(A), is in further challenge before us.

4.2 Upon perusal of document on record, we find that the loans are duly supported by the confirmation of lender and bank statement. The lender has reflected income of Rs.3.16 Lacs in the return of income. The loans given to the assessee are duly reflected in her Balance Sheet. Therefore, in the absence of any adverse material, the loans could not be held to be non-genuine. By deleting this addition, we allow this ground. The appeal stands allowed.

5. ITA No.6023/Mum/2018, AY 2015-16

5.1 The facts as well as issues are substantially the same in this year. The assessee was saddled with addition of gift received from her mother-in-law for Rs.0.99 Lacs. The addition was confirmed by Ld. CIT(A). Since we have deleted similar addition in AY 2014-15, taking the same view, the same stand deleted in this year also.

5.2 Another gift of Rs.33 Lacs received by the assessee from Shri Arvindhbai Tagodiya was added to her income for want of sufficient evidences. Though the assessee filed certain documents during appellate proceedings, however, Ld. CIT(A) chose to confirm the additions. Aggrieved, the assessee is in further appeal before us.

5.3 Upon perusal of documents on record, it could be seen that the gift is duly substantiated by gift deed dated 10/02/2015. The gifts are given thorough banking channels. The donor is an Income Tax Payee. The Ld. CIT(A) has noted that gift to assessee is preceded by gift of same amount to donor from his daughter and son-in-law. There was no occasion for assessee to receive gift from the donor. The layering of fund was done to route unaccounted money of the assessee. The creditworthiness of the donor has also been doubted. However, we find that except for mere allegation, there is no concrete material to support the conclusion of Ld. CIT(A). The addition could not be made on mere suspicion, conjectures or surmises. The assessee has duly discharged her onus of substantiating the gifts by furnishing these documents. The onus would be on revenue to disprove these documents by bringing on record any cogent material to establish that the assessee's own money was routed through layering of gifts. No exchange of cash has been

demonstrated. The source of the gift was also substantiated by the assessee. Therefore, the action of Ld. CIT(A) in confirming the addition do not convince us. By deleting the addition, we allow this ground of appeal. The appeal stands allowed.

Conclusion

6. Both the appeals stand allowed.

Order pronounced on 6th August, 2021.

Sd/-

(Amarjit Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 06/08/2021
Sr.PS, Dhananjay

आदेशकीप्रतिलिपिअग्रेषित/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, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.