

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.6020/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2014-15)

&

आयकरअपील सं./ I.T.A. No.6021/Mum/2018
(निर्धारण वर्ष / Assessment Year: 2015-16)

Mrs. Bhavana Bharat Patodia C-5/3/2 Sector-5 CBD Belapur Navi Mumbai – 400 614	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. ADEPP-8759-N		
(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 22/12/2016. 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.4.78 Lacs which was the same as offered u/s 139(1). The assessee was saddled with addition of gift for Rs.2.96 Lacs which are adjudicated as under: -

3. Gifts

3.1 The assessee received gifts of Rs.0.99 Lacs & Rs.0.97 Lacs from her brothers Shri Ramesh D. Gajera and Shri Kishore D. Gajera. Another gift of Rs.1 Lac was received from her mother-in-law. 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 aforesaid donors 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

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.

3.6 So far as the two other donors are concerned, we find that both of them are agriculturists which is supported by their land holdings. The amounts of gifts are less than Rs.1 Lacs in each of the cases which was below the exemption limit of Rs.2 Lacs. Therefore, there would be no obligation on the donors to file the return of income. The gifts are duly supported by the affidavits of the donors. The details of agricultural land have been well enumerated in their respective affidavits. Regarding the allegation of immediate cash deposit, the donors being agriculturists working in remote villages would receive the proceeds of agriculture in cash. The cash deposit need not match with the harvesting season since there is no such requirement under law. Therefore, these two additions would stand deleted. We order so.

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

4. ITA No.6021/Mum/2018, AY 2015-16

4.1 The facts as well as issues are substantially the same in this year. The assessee was saddled with the addition of gift received from her mother-in-law for Rs.0.97 Lacs. The addition was confirmed by Ld. CIT(A). Since we have deleted a similar addition in AY 2014-15, taking the same view, the same stand deleted in this year also.

4.2 The last addition is u/s 41(1) for Rs.0.81 Lacs on account of sundry creditors. This issue stands covered in the assessee's favor by our adjudication in ITA No. 6012/Mum/2018 as follows: -

6.2 We find that in terms of Sec.44AD, the income is computed on a presumptive basis and there is no need to maintain books of accounts. Therefore, the impugned addition, as made u/s 41(1), in our considered opinion, could not be sustained in the eyes of law. By deleting the same, we allow this ground of appeal.

Accordingly, this addition stands deleted. The appeal stands allowed.

Conclusion

5. 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.