

**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.6014/Mum/2018  
(निर्धारण वर्ष / Assessment Year: 2014-15)

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आयकरअपील सं./ I.T.A. No.6015/Mum/2018  
(निर्धारण वर्ष / Assessment Year: 2015-16)

<b>Mrs. Ila Lalit Patodia</b> B-602, Plot No. C/3 Millenium Orchid, Sector-12, Kharghar, Navi Mumbai-410210	<b>बनाम/</b> Vs.	<b>DCIT CC 1(1),</b> R. No. 903, 9 <sup>th</sup> floor, Old CGO Building, M. K. Road, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. <b>AKZPP-8453-D</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

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

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	26/07/2021
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	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.5.08 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.0.97 Lacs from her mother-in-law Smt. Santaben Vashrambhai Patodiya which was supported by gift deed and land holdings. However, bank statement was not filed. Further, donor had reflected income of Rs.1.78 Lacs only. The donor had gifted amount of Rs.4.94 Lacs to various other family members during the year. Therefore, rejecting assessee's explanation, these gifts were added to assessee's income as unexplained cash credit u/s 68. The Ld.CIT(A), after appreciating additional evidences, confirmed the addition by observing that the donor advanced gifts to various other members and there was no concrete income in her return of income. The donor was

stated to have contributed an amount of Rs.10.47 Lacs towards household expenses which was highly improbable. No agricultural income was offered by her in return of income. Aggrieved, the assessee is in further appeal before us.

3.2 We find that similar issue 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.

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

#### **4. Unsecured Loans**

4.1 The assessee received unsecured loan of Rs.0.45 Lacs from Jiviben G. Vora which was added to her income in the absence of return of income and bank statement of the lender. The Ld. CIT(A) confirmed the same by observing that the lender was not an Income Tax assessee and had not filed any return of income. No material was placed in support of the submissions that the lender earned agricultural income. Aggrieved, the assessee is in further appeal before us.

4.2 Upon perusal of documents, we find that the assessee has placed on record confirmation of the lender. The lender has been allotted PAN. The loan is supported by the affidavit of the lender. This affidavit also

contains the details of agricultural land holding of the lender. It has also been confirmed that Income Tax Return was not filed since the income was below exemption limit. We find that the unsecured loan is duly substantiated and in the absence of any adverse material, the addition is not sustainable in law. By deleting the same, we allow this ground of appeal.

## **5. Low Household Drawings**

5.1 Upon perusal of drawings details, it transpired that the family declared aggregate drawings of Rs.1.38 Lacs which include children's education expenses and LIC payments, The assessee did not furnish complete details of expenses on various items, expenses during functions and festivals, travelling etc. It was concluded that the overall drawings were too low to run a family. Accordingly, the yearly drawings were estimated at Rs.4.50 Lacs and the difference of Rs.3.11 Lacs was added to the income of the assessee.

5.2 We find that similar issue has been decided by us in assessee's favor in ITA No.6012/Mum/2018 as follows: -

4.4 After going through the observations of Ld. CIT(A) and material on record and in view of our observations in preceding para 3.5, we are of the view that the drawings made by the mother as well as gifts given by her are duly supported by her Balance Sheet as on 31/03/2014. 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 assessee's drawings in all the earlier years are less than Rs.2 Lacs which is evident from detail of household expenses as placed on record for various years. This being the case, this addition is not sustainable and hence, we delete the same.

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

6. The appeal stands allowed in terms of our above order.

**7. ITA No.6015/Mum/2018, AY 2015-16**

7.1 The facts as well as issues are substantially the same in this year. The assessee was saddled with addition of low household drawings for Rs.3.77 Lacs on similar factual matrix. Following our adjudication in AY 2014-15, this addition stands deleted.

7.2 The second addition is for gift of Rs.0.99 Lacs received by the assessee from her mother-in-law Smt. Santaben Vashrambhai Patodiya. Following our adjudication in AY 2014-15, this addition stands deleted.

7.3 The last addition stem from the fact that the assessee claimed deduction of interest on borrowed capital for Rs.2 Lacs for self-occupied property under the head Income from House Property. In the absence of sufficient evidences, the deduction was denied to the assessee. The same upon, confirmation by Ld. CIT(A) is in further challenge before us.

7.4 Upon perusal of documents, we find that interest certificate from Indian Overseas Bank has been placed on record. The assessee along with Shri Lalit V. Patodia has paid interest of Rs.4.84 Lacs during the year. The nature of loan is Home Loan which is mentioned on the certificate. This document, in our opinion, is quite sufficient to allow the claim of the assessee. We direct Ld. AO to allow the same. This ground stand allowed. The appeal stand allowed.

**Conclusion**

8. Both the appeals stand allowed.

*Order pronounced on 6<sup>th</sup> 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.**