

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW BENCH "SMC", LUCKNOW**

**[Through Virtual Court]**

**BEFORE SHRI T.S. KAPOOR, ACCOUNTANT MEMBER**

ITA No.12/LKW/2019

A.Ys. 2011-12

Kiran Kumari, 636/33, Ganga Sagar Hospital, Takrohi Chinhath, Lucknow- 226016 PAN BZAPK 8344K	Vs.	ITO-4(2), Lucknow
(Appellant)		(Respondent)

Appellant by	Shri Saurabh Gupta, CA
Respondent by	Shri Ajay Kumar, DR
Date of hearing	15/09/2021
Date of pronouncement	20/09/2021

**ORDER**

This is an appeal filed by the assessee against the order of Id. CIT(A), Lucknow dated 23.10.2018.

2. The assessee has taken six grounds of appeal out of which first two grounds are on the legal issue, whereas remaining four grounds are on the merits of the case. The Id. AR did not argue first two grounds and only argued on merits of the cases, which is represented by Ground Nos. 3 to 6.

3. The Id. AR at the outset submitted that the Assessing Officer has made the addition of Rs.10,39,000/- on account of deposits in the saving bank account of the assessee. It was submitted that before the Assessing Officer explanation regarding six lacs was given as being unsecured loan raised by the assessee from very close relatives and the remaining of Rs.4,39,000/- was deposited out of funds available with the

assessee and in this respect our attention was invited to P.B. pgs. 41 to 42 where the detailed cash flow statement was placed and which the Id. AR submitted that it was before the authorities below and therefore their observation that no explanation was given is contrary to the facts. As regards the unsecured loans, the Id. AR submitted that the assessee was to purchase a property for which funds were accepted to be raised through sale of property however the sale of property could not take place before the date of purchase and the assessee had to make payment for purchase of property prior and our attention was invited to P.B. pgs. 3 to 68, where the copies of sale and purchase deed were placed. It was submitted that all the confirmations along with proof of land holding, copy of Adhar Card was filed with the Assessing Officer and therefore it cannot be said that the necessary evidences were not filed before him. In view of above, it was submitted that the appeal may be allowed on merits.

4. The Id. DR on the other hand submitted that the information submitted to Assessing Officer was not complete and our attention was invited to P.B. Pg. 2 where an affidavit of one of the lender was placed and wherein neither age nor the land holding was mentioned and these were left as blank. Similarly the Id. DR submitted that in sale and purchase deed there is difference in the name of husband therefore these documents are not reliable and therefore the addition has been rightly sustained.

5. I have heard the rival parties and have gone through the material placed on record. I find that as regards the deposit of Rs.4,39,000/- the cash flow statement is placed P.B. Pgs. 41 to 42. Similarly the copy of pass book of Central Bank of India is placed P.B. pgs. 28 to 40 confirmation of lender is placed P.B. pgs. 2 to 27 wherein some

evidences regarding the agriculture land of lenders is also placed. I further find that there is a difference in the name of husband in sale and purchase deed but still the facts noted by Assessing Officer that no explanation was furnished is not correct. Therefore I am of the view that one more opportunity should be granted to the assessee to explain his case therefore I set aside the issue back to the Office of Assessing Officer who should decide the issue afresh after giving sufficient opportunity of being heard to the assessee.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

(Order pronounced in the open court on 20/09/2021)

**Sd/-**  
**(T.S. KAPOOR)**  
**ACCOUNTANT MEMBER**

Aks -  
Dtd. 20/09/2021

*Copy of order forwarded to:*

<i>(1) The appellant</i>	<i>(2) The respondent</i>
<i>(3) Commissioner</i>	<i>(4) CIT(A)</i>
<i>(5) Departmental Representative</i>	<i>(6) Guard File</i>

By order

Assistant Registrar