

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'B', NEW DELHI**

**Before Sh. Amit Shukla, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**(Through Video Conferencing)**

**ITA No. 3255/Del/2018 : Asstt. Year : 2009-10**

Income Tax Officer, Ward-49(4), New Delhi-110002	Vs	Devki Nandan Gupta, Block-X, House No. 49, DLF City, Phase-2, DLF Cyber City, Gurgaon-122002
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AEXPG9487N</b>		

**CO No. 23/Del/2021 : Asstt. Year : 2009-10**

Devki Nandan Gupta, Block-X, House No. 49, DLF City, Phase-2, DLF Cyber City, Gurgaon-122002	Vs	Income Tax Officer, Ward-49(4), New Delhi-110002
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AEXPG9487N</b>		

**Assessee by : Sh. Dinesh Agarwal, Adv.**

**Revenue by : Sh. Mahesh Thakur, Sr. DR**

**Date of Hearing: 05.08.2021**

**Date of Pronouncement: 22.10.2021**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the Revenue and the Cross Objection by the assessee against the order of Id. CIT(A)-17, New Delhi dated 26.02.2018.

2. Heard the arguments of both the parties and perused the material available on record.

3. We have gone through the order of the Id. CIT(A) wherein the entire history of the case, facts and the reasons of adjudication have been lucidly explained. For the sake of ready reference, the entire order is reproduced herewith:

*"The assessee's daughter Ms. Megha Gupta was married to one Saurabh Bansal son of Mr. Sudhir Bansal, a well-to-do family in Jaipur on 16.02.2009. The marriage was a love marriage. The TEP was filed by the complainant (Sh. Sudhir Bansal) on the basis of the data reflected in the FIR that the assessee had spent about Rs. 1.5 crore in February 2009 as admitted in the FIR filed before the SHO, Police Station, Sector-51 Gurgaon. On the basis of the information, the Income Tax Return of the assessee for the A.Y. 2009-10, which was downloaded from the AST system, reflect that during the year under consideration, assessee has offered Rs. 2,60,000/- as taxable income after claiming deduction under chapter VI-A of Rs. 1,15,000/-.*

*4.3 The AO held that the assessee has failed to substantiate the fact that no amount has been spent on engagement and marriage of the daughter of the assessee which was solemnized at two different lavish hotel(s) of the country and accordingly, made an addition of Rs. 2,10,00,000/- (Rs. 1.5 crore on Marriage + Rs. 10 Lakhs on engagement + Rs. 50 Lakhs for Jewellery).*

*4.4 Hence the assessee is in appeal.*

*5. Determination:*

*5.1 Ground Nos. 1 to 7 are inter-related. Vide these grounds, the appellant has challenged the initiation of proceedings under*

*section 147 of the Act and challenged the action of the AO in making an addition of Rs. 2.10 Cr. based on FIR.*

*Findings:*

*5.2 The issue involved in this case is that whether the AO is correct in making an addition based on the contents of complaint filed by the assessee which was retracted at a later stage and the police enquiry also found it to be false complaint or not?.*

*5.3 At the outset, the facts of the case are that a police complaint/FIR. was filed by the assessee before the SHO, Police Station, Sector-51 Gurgaon alleging that he had spent about Rs.1.5 crore on Marriage of his daughter (Megha), which took place at Hotel Ram Bagh Palace, Jaipur, Rs. 10 Lakhs on the occasion of engagement of her daughter, which was held at Hotel Le- Meridian, Jaipur and Rs. 50 Lakhs for Jewellery. The marriage of the daughter of the assessee was solemnized on 16.02.2009 and the engagement ceremony was on 11.06.2008. Based on the contents of the complaint, a TEP was filed by the Sh. Sudhir Bansal, the father of the bride groom, in the income tax office alongwith copy of the police complaint.*

*5.4 The AO asked the assessee to explain the source of the funds for meeting expenses as detailed out in the police complaint. Regarding the expenses incurred on the occasion of marriage of her daughter for which FIR has been filed by the assessee, it was submitted by the assessee during the assessment proceedings that no such expenses were incurred by the assessee. The assessee clarified that the whole episode had*

*arisen on account of marital discard between the daughter and her husband, wherein complaints and counter complaints were filed against each other and the same were withdrawn after the matter got resolved between the parties.*

*5.5 The assessee also pointed out that the AO ought to have made enquiries on his own from the concerned hotels to ascertain the correct set of facts. The assessee made reference to the similar question asked by the STO. Ward 2(4), Gurgaon in the case of Mrs. Manju Gupta, wife of the assessee and the returned income was accepted based on the information gathered from the hotel.*

*5.6 The assessee had filed affidavit on 28/12/2016 wherein he denied the transactions held at the time of marriage & engagement of daughter as depicted in the FIR. Further, an affidavit of Mr. Sudhir Bansal (who had filed the TEP) was also filed in which the transactions mentioned in the TEP were denied.*

*5.7 However, the AO disregarded the submission of the assessee. The AO observed that a mutual agreement has been arrived between the assessee and Mr. Sudhir Bansal and the complaint filed before the Police has been withdrawn but the same does not have any impact on the financials provided by the assessee in his complaint before the police and the same were submitted by Mr. Sudhir Bansal in his TEP. Further, the AO observed that the assessee had claimed that he had not spent any amount on the occasion of her daughter, which is beyond any imagination and hard to believe.*

*5.8 The AO made a specific remark in the assessment order that "if the version of assessee is to be believed then, it is apparent that the assessee and Mr. Sudhir Bansal is making mockery to the legal department i.e., Police and Income Tax and misusing the facilities provided to the people by filing false facts at the time of FIR and TEP." With these remarks, the AO held that the assessee has failed to substantiate the fact that no amount has been spent on engagement and marriage of the daughter of the assessee, which was solemnized two different lavish hotel(s) of the country and accordingly, a sum of Rs.2,10,00,000/- (Rs. 1.5 crore on Marriage + Rs. 10 Lakhs on engagement + Rs. 50 Lakhs for Jewellery) spent by the assessee has been added under the provisions of Section 69C of the Income tax act.*

*5.9 I find that the AO has relied on the facts stated in the FIR. However, the fact of the matter is that the police authorities investigated the matter and submitted status report in the Court of Ilaaka Magistrate, Gurgaon in the case on 28.10.2016. As per the status report, the police enquiry revealed that the marriage related expenses including hotel expenses were borne by the bridegroom side. The police enquiry concluded that no truth has been found in the allegations made in the FIR by Megha Gupta. The cancellation report of Thana, Sector-51, Gurgaon and order of Ms. Nitika Bhardwaj, Judicial Magistrate for taking note of cancellation report of police was forwarded to the AO for comments. However, no response in this regard has been received till date.*

*5.10 Further, it is noted that the complainant i.e. assessee in this case has on his own denied the allegations made in the FIR and submitted an affidavit in this regard. Furthermore, Mr. Sudhir Bansal, the father of bridegroom also submitted an affidavit wherein he denied the facts stated in the Tax Evasion Petition filed by him. It is also noted that the ITO. Ward 2(4), Gurgaon in the case of Mrs. Manju Gupta, wife of the assessee accepted the returned income' based on the information gathered from the hotel.*

*5.11 In view of the above discussion, I find that the AO has no material on record other than TEP and FIR to substantiate the addition in this case. No enquiry has been made by the AO to verify the facts reported in the TEP. As against this, the facts stated in the FIR have not been found to be true in the enquiry conducted by police. The expenses of Rs. 2,94,102/- on the wedding function on 16/02/2009 at Shahi Bagh, Ram Bagh Palace, Jaipur, Rajasthan, was also incurred by Mr. Sudhir Bansal, (Father of the bride groom), which is evident from the bills raised in this regard, by M/s Taluka Tent Decorators, Jaipur and M/s. Jasbeer Electric Decorator, Jaipur.*

*5.12 Therefore, it is evident that the facts as reported in the FIR by the assessee are not corroborated with any independent enquiry. Further, the assessee also did not enclose any documentary evidence at the time of filing of FIR to corroborate the allegations made in the FIR. Therefore, the AO has no corroborative evidence on record to rely on the facts stated in the FIR. It is a settled position that any allegation should be corroborated by independent evidence. The principle that*

*emerges is that mere statement/ admission has no evidentiary value unless supported by corroborative evidence. In such a situation, the reliance of the AO on the contents of FIR is not appropriate because the same have been disproved by the police enquiry and the proof of payment of the bills in relation to the marriage function.*

*5.13 As regards, the question of expenditure incurred by the assessee in relation to the marriage function, the appellant submitted that,*

- In connection with the marriage function of my daughter Ms. Megha Gupra, I have given jewellery to the daughter (weighing approx 50 gms.) including one necklace set (30 gms) and two bangles (karas) (weighing approx 20 gms). This was given out of the jewellery available with my wife Mrs. Manju Gupta (her Stridhan). The value of such jewellery at the time of wedding was approx Rs. 75,000/- (i.e. at the rate of gold during 2009).*
- A get together for greeting the newly wedded couple was arranged by me at the Palm Town and Country Club, Sushant Lok, Phase-I, Gurgaon on 27/02/2009, wherein an expenditure of Rs. 61,097/- was incurred by me. The details of the same were furnished to the assessing officer on 27/12/2016 vide letter dated 23/12/2016. An affidavit to this effect was furnished before the A.O. on 16/12/2016.*

- *Over and above this expenditure, I must have incurred a sum of Rs. 50,000 approx on various other wedding related other incidentals during the period of the wedding.*
- *Thus, the total expenditure on the wedding related functions incurred by the assessee comes to Rs. 1,11,097/- which was out of "Shagans" (cash gifts) received by the assessee during the daughter was out of the old jewellery available with the mother of the bride (i.e. out of the Stridhan of the mother of the bride).*

*5.14 As per the above submission, the appellant claimed to have spent a sum of Rs. 1,11,097/- in relation to the marriage. In view of the same, it is not a case that no amount was spent on engagement and marriage of the daughter of the assessee. Hence, the conclusion of the AO that "the assessee has failed to substantiate the fact that no amount has been spent on engagement and marriage of the daughter of the assessee..." is not valid. In the absence of any evidence, I do not find any merit in the addition made by the AO in this case based only on the contents of FIR, which stands disproved."*

4. On going through the record, we find that that there is absolutely no evidence available or gathered by the Revenue except the copy of the FIR filed by the assessee. The contents of the FIR and the taxability arising out of the facts in FIR have been duly considered by the Ld.CIT(A). Hence, we decline to interfere with the well reasoned order of the Id. CIT(A).

5. Since, the matter has been adjudicated on merits of the case, the CO raised in relation to Section 147 befall.

6. In the result, the appeal of the Revenue and Cross Objection of the assessee are dismissed.

Order Pronounced in the Open Court on 22/10/2021.

Sd/-

**(Amit Shukla)**  
**Judicial Member**

**Dated: 22/10/2021**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**