

आयकर अपीलिय अधिकरण “ए” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.683/Mum/2021
(निर्धारण वर्ष / Assessment Year: 2016-17)

Lubaina Liyakatally Colombowala B 2103, Lake Castle Hiranandani Gardens, Powai, Mumbai-400 076	बनाम/ Vs.	ITO-Ward 26(2)(1) Pratyakshkar Bhavan, C-11 Bandra Kurla Complex Bandra East, Mumbai-400 051
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. ACHPC-6765-H		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Mr. Aditya Ramchandran, AR
Revenue by	:	Ms.Shailja Rai, Ld. CIT-DR

सुनवाई की तारीख/ Date of Hearing	:	15/11/2021
घोषणा की तारीख / Date of Pronouncement	:	15/11/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aggrieved by invocation of revisional jurisdiction u/s 263 for Assessment Year (AY) 2016-17 by learned Pr. Commissioner of Income Tax-17, Mumbai (Pr. CIT) vide order dated 04/03/2021, the assessee is in further appeal before us.
2. The Ld. AR drawing attention to the assessment proceedings assailed the revisionary order whereas Ld. CIT-DR supported the

revision of the order. Having heard rival submissions, our adjudication would be as under.

3. The material facts are that an assessment was framed for the year under consideration u/s 143(3) on 22.12.2018, wherein the returned income filed by the assessee was accepted. It could be noted that certain queries were raised by Ld. AO in notices u/s 142(1) during the course of assessment proceedings which were duly responded to by the assessee. In one such notice u/s 142(1) dated 12.04.2018, the assessee was directed to furnish the detail of exempt income earned during the year under consideration. The assessee, vide reply dated 19.04.2018, submitted that exempt income include gift of Rs.192.70 Lacs as received by assessee from her sister Ms. Nishreen Pardawala. In support the assessee filed copy of ledger and confirmation of gift by the sister. The perusal of copy of ledger would show that the assessee received a sum of Rs.177.70 Lacs from her sister during the year which after adding opening balance of Rs.15 Lacs aggregated to Rs.192.70 Lacs. The same was claimed exempt and added to the capital account of the assessee. The same is also evident from assessee's Balance Sheet as on 31.03.2015 and 31.03.2016, the copies of which are on record. The confirmation about payment of gift of Rs.192.70 Lacs by her sister was also placed on record. After satisfying himself, Ld. AO accepted the claim of the assessee and chose not to make any additions on this account.

4. Subsequently, Ld. Pr. CIT, upon perusal of case records, alleged that the assessee only received only Rs.177.70 Lacs during the year and the balance amount of Rs.15 Lacs was not received from sister or received from unknown sources. The identity, genuineness and

creditworthiness of the source remain unexplained and Ld. AO should have inquired into the applicability of Sec.68 on this transaction. Accordingly, the assessment order was set aside and Ld. AO was directed to conduct requisite enquiries to arrive at the correct conclusions as per law and frame the assessment order de-novo. Aggrieved, the assessee is in appeal before us.

5. In the background of factual matrix as enumerated by us in preceding para-3, it is quite evident that the opinion of Ld. Pr. CIT is quite misconceived. The Ld. Pr. CIT failed to take note of the fact that the assessee's sister had opening balance of Rs.15 Lacs and she had advanced further sum of Rs.177.70 Lacs to the assessee during the year. The aggregate amount of Rs.192.70 Lacs was claimed exempt and added to the capital account of the assessee. In support, requisite documents were already filed by the assessee during the course of assessment proceedings. This being so, the assessment could not be held to be erroneous and prejudicial to the interest of the revenue. Therefore, we have no hesitation in quashing the revisionary order dated 04.03.2021 and restoring the assessment framed by Ld. AO.

6. The appeal stand allowed.

Order pronounced on 15th November, 2021.

Sd/-

(Mahavir Singh)

उपाध्यक्ष / Vice President

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / Accountant Member

मुंबई Mumbai; दिनांक Dated : 15/11/2021
Sr.PS, Sudip Sarkar

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