

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "SMC" NEW DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

आ.अ.सं./I.T.A No.8903/Del/2020

निर्धारणवर्ष/Assessment Year: 2013-14

<b>Daya Shankar Yadav, New Extension Colony, Gali No. 6, Ward No. 14, Near Green Wood Public School, Palwal, Haryana.</b>	<u>बनाम</u> Vs.	<b>ITO Ward 1(2) Faridabad.</b>
<b>PAN No. AABPY9858R</b>		
अपीलार्थी <b>Appellant</b>		प्रत्यर्थी/ <b>Respondent</b>

निर्धारितकीओरसे / <b>Assessee by</b>	<b>Shri Satish Malhotra, Adv. &amp; Shri Daya Shankar Yadav, Assessee</b>
राजस्वकीओरसे / <b>Revenue by</b>	<b>Shri Om Prakash, Sr. DR</b>

सुनवाईकीतारीख/ <b>Date of hearing:</b>	07.03.2022
उद्घोषणाकीतारीख/ <b>Pronouncement on</b>	08.04.2022

**आदेश /O R D E R**

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals), Faridabad dated 27.05.2019 for the AY 2013-14 in sustaining the addition of Rs. 4 lakhs made by the ITO, Ward 1(2), Faridabad while completing the assessment u/s 143(3) read with Section 147 of the Act.

2. Brief facts are that the assessee filed return of income declaring income of Rs. 2,27,703/-. Based on some information that the assessee

had spent 25-26 lakhs on the marriage of his daughter held on 24.04.2012 the assessment was reopened by issue of notice u/s 148 of the Act to verify the source of income for the expenses incurred for the marriage. In the course of assessment proceedings the assessee explained that he was a Government Servant in Haryana State Government and retired from the service in the month of June, 2012 and the marriage expenses of his daughter were met from GPF Advance, GIS Payments from the Government, leave encashment & LTC, loans from family members and withdrawal from his bank account. However, the Assessing Officer not convinced with the submissions of the assessee that the withdrawal of Rs. 4,00,000/- made by the assessee (in the month of November) were utilized for the payments to various persons i.e. after seven months of the marriage he treated the amount of Rs. 4 lakhs as unexplained expenditure.

3. On appeal the Ld. CIT(Appeals) sustained the addition disbelieving the submission of the assessee that the withdrawal of Rs. 4 lakhs were utilized for meeting the marriage expenses.

4. Before me the Ld. Counsel for the assessee submits that for the AY 2013-14 assessee filed his return of income on 21.08.2013 declaring income of Rs. 2,27,703/-. The Assessing Officer issued notice u/s 148 of the Act dated 31.03.2018 after four years stating that income has escaped assessment and till date the AO has not furnished reasons for

reopening the assessment in spite of several oral requests made by the assessee.

5. Ld. Counsel submits that assessee came to know during the court proceedings that the notice u/s 148 was issued based on some information provided by Shri Manish Kumar, the son-in-law of the assessee who was in matrimonial dispute with his wife Mrs. Atithi, the daughter of the assessee in the year 2018. Ld. Counsel submits that in various court proceedings the assessee gave a statement that he has spent approximately 25-26 lakhs on the marriage of his daughter. The Ld. Counsel for the assessee submits that based only on the written complaint from Shri Manish Kumar the assessment of the assessee was reopened and the reasons for reopening the assessment recorded by the Assessing Officer were never provided by the AO to the assessee till date. The Ld. Counsel, therefore, submitted that assessment was reopened based only on suspicion without there being any information and based only on a third party complaint which is bad in law. The Ld. Counsel submits that there was no material before AO except the complaint to believe that the income escaped assessment and further in the absence of supply of reasons recorded for reopening of assessment the assessment made u/s 143(3) read with section 147 is bad in law.

6. The Counsel for the assessee further submits that the assessee in the course of assessment proceedings has provided all the details

regarding the marriage expenses and explained the sources for meeting such expenses. Ld. Counsel submits that the Assessing Officer disbelieved that the withdrawal of Rs. 4 lakhs made by the assessee from his account was utilized for meeting the marriage expenses only for the reason that the marriage took place in the month of April 2012 and the payments were made during the months of June to November 2012. The Ld. Counsel submits that it is only an assumption of the Assessing Officer that the assessee could not have met the marriage expenses after six months of the marriage when in fact the assessee paid the amounts to various persons gradually even after the marriage. It is submitted that in the villages it is normal practice that the payments will be made to meet the expenses even after the marriage is performed. Therefore, Ld. Counsel submits that the amount withdrawn by the assessee from his bank account cannot be treated as unexplained source in meeting the marriage expenses. Therefore, he submits that the Assessing Officer is not justified in treating the withdrawals by the assessee as unexplained source of income.

7. The Ld. DR supported the orders of the authorities below.

8. Heard rival submissions and perused the orders of the authorities below. On perusal of the assessment order, we find that the Assessing Officer reopened the assessment on the basis of information that the assessee had spent 25-26 lakhs on marriage of his daughter held on

24.04.2012. In order to ascertain the source of income for meeting the expenditure incurred on marriage it seems that the AO issued note u/s 133(6) of the Act to the assessee and assessee filed various details with regard to source of expenditure on marriage of his daughter. Statement of the assessee was also recorded by the AO. On examining the details and evidences furnished by the assessee, the Assessing Officer stated that “the assessee claimed to have made payments for which case was reopened u/s 148 out of total marriage expenditure from the following funds” :

<i>i) Leave encashment &amp; LTC,</i>	<i>Rs. 5,22,907/-</i>
<i>ii) GIS Payments</i>	<i>Rs. 1,05,605/-</i>
<i>iii) Withdrawal from Account</i>	<i>Rs. 4,00,000/-</i>
<i>Total</i>	<i>Rs. 10,28,512/-</i>

9. On perusal of the assessment order, I find that the Assessing Officer treated Rs. 4 lakhs withdrawn by the assessee from his bank account as remained unexplained as he was of the view that assessee performed his daughter’s marriage in the month of April, 2012 and whereas the withdrawals from his bank account were made thereafter and payments made to meet the expenditure in the month of November, 2012 i.e. after seven months. This is the only reason given by the AO for disbelieving the explanation of the assessee that the withdrawals from his bank account were the source for meeting the marriage expenses.

10. I find that the explanation given by the assessee cannot be disbelieved when the Assessing Officer never made any inquiries with the

persons to whom the payments were made by the assessee. It is the finding of the AO that he has obtained permission to conduct open enquiries and a statement was also recorded from the assessee u/s 133(6) of the Act. But no such findings were recorded by the Assessing Officer in the assessment order as to what was the statement recorded from assessee and whether the assessee has made payments to various persons to meet the marriage expenses as contented by the assessee. It is observed that the Assessing Officer also did not record the reasons for reopening of the assessment in the assessment order. He has simply recorded a finding that “based on information with the department that the assessee spent Rs. 25-26 lakhs on the marriage of his daughter on 24.04.2012 namely Ms. Athiti”, assessment was reopened. He has not specified what information the department is in possession to believe income of the assessee had escaped assessment for AY 2013-14. What is the tangible material came to the possession of Assessing Officer suggesting that the income had escaped assessment in the case of the assessee is not known? It is also the contention of the assessee that copy of reasons recorded for reopening were never provided to the assessee till now and in which case reopening of assessment itself is bad in law.

11. I further noticed that Assessee in the course of assessment proceedings explained the sources of income for meeting the marriage expenses incurred for his daughter’s marriage as under:

“From:

Daya Shankar Yadav S/o Sh. Raghuver Dayal Yadav  
R/o Gali No. 6, New Colony Extn.,  
Palwal (HARYANA)

To:

Income Tax Officer  
Ward-1(2), New CGO Complex,  
NH-IV, Faridabad

Subject: Information u/s 133(6) of the Income Tax Act -

Reference: Your email [rajinder.tikoo@incometax.gov.in/2107](mailto:rajinder.tikoo@incometax.gov.in)

Dated : 30.05.2017

R/Sir,

With above cited subject and reference, I have already sent the information point wise 1-4 vide my letter on dated 13.06.2017.

The detailed information regarding point no. 04 about source of expenditure made by me on the marriage ceremony of my daughter **Atithi** are as given below:

Sl.No.	Particulars	Cost (in Rs.)	Remarks
1.	Jwellery	8,77,000.00	My old parental gold for Marriage Adv.
2.	GPF Adv.	4,39,000.00	
3.	GIS Payment	1,05,605.00	
4.	Salary	50,794.00	
5.	Salary	39,464.00	
6.	Leave encashment & LTC	5,22,907.00	
7.	Daughter given help	2,00,000.00	She was software Engr.
8.	My brother given help	2,50,000.00	They are farmers & doing Agriculture
9.	Suresh Singh Yadav help	3,50,000.00	My wife's brother
10.	Withdrawal my account	4,00,000.00	
11.	Kanyadaan received	2,26,364.00	Atithi's marriage
12.	Shagun received	53,289.00	My son Aditya marriage
<b>Total</b>		<b>Rs.35,14,423.00</b>	

Now, information regarding my bank account and information related to my son and daughter are as given below:

1.	My Bank Account No. 156706	Saving Account details given
2.	My Account No. 28620099....471	OD Bank loan sanctioned on dated 28.10.2016
3.	My Account No. 111 House Loan	Balance Rs. 6000.00
4.	My Account No. 661 House Loan	Closed
5.	Account No. 157901511285	My daughter Atithi's A/c
6.	My son Ankit is not running any	

*company*  
*It is submitted for your kind information please.*  
*Thanking you,*

*Dated: 21.06.2017*

*Yours faithfully,*

*Sd/-*  
*Daya Shankar Yadav*  
*S/o Sh. Raghuver Dayal Yadav*  
*R/o Gali No. 6, New Colony Extn.,*  
*Palwal (HARYANA)*  
*Mob : 9467781781*

12. The only suspicion of the Assessing Officer in treating the withdrawal of Rs. 4 lakhs by the assessee from his bank account is that assessee had performed the marriage in the month of April 2012 and, therefore, he could not have made payments after seven months of the date of marriage to meet the expenses. In my view it is only an assumption by the AO that payments could not have been made after the marriage. The fact that it is normal practice in villages that the payments also be made even after the marriage is performed cannot be ruled out. One may meet the expenses of marriage entirely on same day and one may pay the amounts gradually even after completion of marriage. It depends on the financial condition of the person who performs the marriage. Here the assessee is a retired Govt. Servant in the Haryana State Govt. who retired in the month of June, 2012 after the marriage of his daughter in the month of April 2012. The AO himself accepted that part of the marriage expenses were met out of GIS, Leave encashment & LTC, and GPF advance of Rs. 4,39,000/-. Therefore, the AO having accepted the sources of income for meeting the marriage

expenses as explained by the assessee in his letter extracted above there is no reason to disbelieve that the assessee had made payments after the marriage to meet the expenses. In any case no enquiries were made by the AO to ascertain whether the assessee has paid the monies to various persons to meet the marriage expenses. It appears that he believed only the third party complaint to come to the conclusion that income had escaped assessment and the assessee incurred marriage expenses beyond his sources.

13. Therefore, I do not see any valid reason not to accept the version of the assessee that he has made payments even after performing the marriage in April 2012. The contention of the assessee that he has made payments to various persons like Tent House, Halwai, Catering, etc. even after the marriage in a small town like Palwal cannot be ruled out. Therefore, the assumption of the authorities below that the assessee could not have made payments even after the seven months of the marriage leading to disallowance of Rs. 4 lakhs as unexplained marriage expenses is not justified and baseless. I, thus, direct the Assessing Officer to delete the addition of Rs. 4 lakhs made while completing the assessment u/s 143(3) read with Section 147 of the Act and re-compute the income accordingly.

14. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 08/04/2022

Sd/-  
(C.N. PRASAD)  
JUDICIAL MEMBER

Dated: 08.04.2022  
*\*Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard  
file of ITAT.

By order

**Assistant Registrar, ITAT: Delhi Benches-Delhi**