

IN THE INCOME TAX APPELLATE TRIBUNAL “PATNA” BENCH, PATNA
VIRTUAL HEARING AT KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Girish Agrawal, Accountant Member

I.T.A. No.47/Pat/2020
Assessment Year: 2014-15

Kumari Sanjana Singh.....Appellant

W/o Shiv Nararyan Singh,
Harsh Egg Centre,
Near Anishabad Golambar,
Manik Chand Talab, Anishabad,
Patna-800002.

[PAN: CLEPS6120G]

vs.

ITO, Ward-4(5), Patna.....Respondent

Appearances by:

Shri Abhi Sarkar, Advocate appeared on behalf of the appellant.

Shri Rupesh Agrawal, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : April 27, 2022

Date of pronouncing the order : April 27, 2022

ORDER

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 12.02.2020 of the Commissioner of Income Tax(Appeal), Patna-2 [hereinafter referred to as ‘CIT(A)’] passed u/s 250 of the Income Tax Act (hereinafter referred to as the ‘Act’). The assessee in this appeal has taken the following grounds of appeal:

“1. That the order of the Ld. Assessing Officer as well as the order of the Ld. Commissioner of Income Tax (Appeal) is bad in law and on fact.

2. That the Ld. Commissioner of Income Tax (Appeal) has erred in upholding the addition of Rs.6,00,000 under Section 56(2)(vii)(b)(ii) of the Act read with Section 115BBE of the Act, notwithstanding the fact that the ld CIT(A) as well as the ld assessing officer had accepted the report of the DVO and the ld CIT(A) has deleted the addition of Rs.33,27,000 made under the provision Section 56(2)(vii) (b)(ii) of the Act read with Section 115BBE of the Act.

3. That the Ld. Commissioner of Income Tax (Appeal) has erred in not adjudicating the objection that once the assessing officer proposed to invoke the provision of Section 56(2)(vii)(b)(ii) of the Act, he cannot take recourse to the provisions of Section 115BBE of the Act for making an assessment.

4. That the Ld. Assessing Officer as well as the order of the Ld. Commissioner of Income Tax (Appeal) has erred in imposing tax as per the provision of Section 115BBE of the Act without invoking the provisions of section 68, section 69, section 69A, section 695, section 69C or section 69D.

5. That the Ld. Commissioner of Income Tax (Appeal) has erred in not taking into consideration the remand report of the ld assessing officer, wherein the ld assessing officer after proper investigation and examination had accepted the claim of the appellant.

6. That the Ld. Commissioner of Income Tax (Appeal) has erred in not taking into consideration the evidence placed on record by the appellant during the appellate proceeding.

7. That the Ld. Assessing officer has erred in not taking into consideration the evidence placed on record by the appellant during the assessment and remand proceeding.

8. That any further ground/grounds may be raised at the time of the appeal.”

2. At the outset both the ld. representatives of the parties have submitted that the only issue involved in this appeal is relating to confirmation of addition of Rs.6,00,000/- out of the investment made by the assessee in purchase of the property. Though the case of the assessee is that the assessee has received the aforesaid amount of Rs.6,00,000/- from her relatives who have duly confirmed regarding the aforesaid credits of the amount to the assessee, however, the Income Tax Authorities have failed to appreciate the same.

On the other hand, the contention of the ld. DR has been that though, the confirmations from the relatives have been filed but those were not sufficient and adequate to prove the source of funds in the hands of the relatives. The ld. DR, in this respect, has relied on the remand report, wherein, a chart has been made against each of the credits/confirmations by the relatives, the relevant part of which is reproduced as under:

Sl.	Source of fund investment claimed by the assessee	Findings
3	Late Bindeshwari Singh [father of the assessee] for Rs.2.0 lac	The assessee failed to submit any authentic documentary evidence in relation to this financial assistance, such as, source of income of this relative, mode of receipt, credibility & genuineness of financial assistance.
4	Raj Singh [Brother of the assessee] for Rs.1.0 lac	The assessee failed to submit any authentic documentary evidence in relation to this financial assistance, such as, source of income of this relative, mode of receipt, credibility & genuineness of financial assistance.
5		
6	Bimal Devi [Sister of the assessee] for Rs.50,000/-	The assessee failed to submit any authentic documentary evidence in relation to this financial assistance, such as, source of income of this relative, mode of receipt, credibility & genuineness of financial

		<i>assistance.</i>
7	<i>Amit Singh [Husband of Smt. Bimal Devi] for Rs.50,000/-</i>	<i>The assessee failed to submit any authentic documentary evidence in relation to this financial assistance, such as, source of income of this relative, mode of receipt, credibility & genuineness of financial assistance.</i>
8	<i>Late Shakuntala Devi [Mother of the assessee] for Rs.2.0 lac</i>	<i>The assessee failed to submit any authentic documentary evidence in relation to this financial assistance.</i>

A perusal of the above chart shows that small amounts have been taken by the assessee from her relatives i.e. father, brother, father-in-law, sister, sister's husband and mother of the assessee. All the relatives have filed confirmations that they had given advance of small amount ranging from Rs.50,000/- to Rs.2 lac to the assessee. The Id. Assessing Officer has rejected the aforesaid confirmations stating that the said relatives have not proved the source of income, their credibility and genuineness of the financial assistance.

3. We find that the amounts of advance are very small and that too from relatives. If the Assessing Officer had any doubt about these aforesaid transactions, he could have put the relevant queries etc. to the assessee or he could have summoned the relatives also. However, without making such exercise, he has simply written that the source of funds of the relatives is not proved. Since the amounts are very small and considering the facts that the relatives of the assessee have given small financial assistance to the assessee, in our view, the impugned additions made by the lower authorities are not justified. The impugned additions of Rs.6,00,000/- confirmed by the Id. CIT(A) is set aside.

4. In the result, the appeal of the assessee stands allowed.

Kolkata, the 27th April, 2022.

Sd/-
[Girish Agrawal]
Accountant Member

Sd/-
[Sanjay Garg]
Judicial Member

Dated: 27.04.2022.

RS

Copy of the order forwarded to:

1. Kumari Sanjana Singh
2. ITO, Ward-4(5), Patna
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches