

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC - A” BENCH : BANGALORE**

BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER

ITA No.713/Bang/2021
Assessment Year : 2017-18

Ms. Ashwini Yogananda, Rep. by Mr. Navin Yogananda, 1 Sree Kanteshwara Nilaya, Basaaraj Layout, Byrathi, Bengaluru – 560 077. PAN : AHPA 0244 C	Vs.	ITO (International Taxation), Ward – 1(2), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. G. S. Prashanth, CA
Revenue by	:	Shri. Ganesh R Ghale, Standing Counsel for Department.

Date of hearing	:	24.05.2022
Date of Pronouncement	:	24.05.2022

ORDER

The assessee has filed this appeal challenging the order dated 03-11-2021 passed by Ld CIT(A)-12, Bengaluru and it relates to the assessment year 2017-18. The solitary issue urged by the assessee relates to the addition of Rs.22,39,500/-, being the cash deposited into bank account during de-monetization period on 12.11.2016, which was added by the AO as unexplained investment under section 69 of the Act and confirmed by the Ld.CIT(A).

2. The assessee is an individual and filed her return of income for the year under consideration declaring Nil income. The assessee is a non-resident during the year under consideration and she was staying in Qatar. It

was noticed by the AO that the assessee has made cash deposits during the de-monetization period from 09.11.2016 to 30.12.2016 aggregating to Rs.22,39,500/- in her bank account maintained with HDFC Bank. The assessee explained the source of cash deposits as her own savings and her mother's retirement benefits. It was submitted that the mother of the assessee had withdrawn money earlier from her bank account for purchasing a property. After announcement of demonetization of high value currency notes, it was stated that the above said cash was deposited into the bank account of the assessee. When the AO asked the assessee to justify the above said explanations, there was no response from the assessee. Hence, the AO assessed the above mentioned cash deposit of Rs.22,39,500/- as income of the assessee.

3. Before the Ld CIT(A), the assessee furnished a gift deed to show that her mother had gifted a sum of Rs.23 lakhs to her out of her retirement benefits and the same was used to make deposit into the bank account in November 2016. The Ld CIT(A) noticed that the mother of the assessee had withdrawn Rs.23 lakhs during February 2014 and gift was given to the assessee in April 2014. However the deposit was made into the bank account only during November and December 2016 during demonetization period. Accordingly, the Ld CIT(A) took the view that the explanation offered by the assessee is farfetched one and it is not reasonable for a person living abroad to keep cash in India and deposit the same after about 2 ½ years. Accordingly, he confirmed the disallowance.

4. The Ld AR submitted that the tax authorities have not examined the bank accounts belonging to assessee's mother and the assessee. Inviting my

attention to the bank account of the assessee, the Ld AR submitted that the mother of the assessee had sufficient cash balance in her bank account and the source of the same is her retirement benefits. The assessee has furnished copies of GPF, Gratuity and Earned Leave belonging to mother of the assessee Smt. Puttamma. He submitted that the mother of the assessee had withdrawn the money for the purpose of purchasing the property. Since she could not find ideal property, she has gifted a sum of Rs.23 lakhs to the assessee. For some unavoidable reasons, the above said amount was kept by way of cash in the house and the assessee was living abroad. When the demonetization was announced, the entire cash amount was deposited into the bank account. The Ld AR submitted that the assessee is an individual and there is no malafide intention in keeping the money in cash. He submitted that, since the sources of cash have been explained, the impugned addition should not have been done by the AO.

5. The Ld AR further submitted that the assessee could not furnish relevant documents before the AO and they were submitted before Ld CIT(A) only. However, the First Appellate Authority did not examine the documents and further disbelieved the explanations given by the assessee, only for the reason that the deposits have been made after 2 ½ years. The Ld AR submitted that the assessee could not make deposits into the bank account only for the reason that she was staying abroad. Since the documents furnished by the assessee have not been examined by the tax authorities, the explanations given by the assessee could not have been properly appreciated by them. Accordingly, he submitted that the assessee may be provided with an opportunity to present her case properly before the AO along with the supporting documents.

6. On the contrary, the Ld DR supported the order passed by Ld CIT(A).

7. Having heard the rival submissions, in my view, in the interest of natural justice, the assessee may be provided with one more opportunity to present her case properly before the AO. According to Ld A.R, the sources stand explained. The only difficulty was the time gap between the date of receipt of gift and the date of deposit. Admittedly, the assessee was residing abroad and the circumstances which compelled the assessee in not depositing money needs to be explained by her. Under these set of facts, I merit in the prayer of Ld A.R seeking one more opportunity to the assessee. Accordingly, I set aside the order passed by Ld CIT(A) and restore all the issues to the file of the AO for examining them afresh. After affording adequate opportunity of being heard, the AO may take proper decision in accordance with law.

8. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-
(B. R. BASKARAN)
Accountant Member

Bangalore,
Dated: 24.05.2022.
/NS/*

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| 1. Assessee | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.