

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH “SMC”, MUMBAI**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
AND
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**ITA No.1731/M/2021
Assessment Year: 2017-18**

Shri Ratish Narayanan Nambiar, 3/403-404, Shanti Garden, Sector 6, Mira Road, Thane – 401 107 PAN: ALUPK1149B	Vs.	Income Tax Officer, Ward 1(2), Ashar IT Park, Wagle Estate, Thane – 400 606
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Satish Kadam, C.A.
Revenue by : Shri Kiran P. Unavekar, D.R.

Date of Hearing : 31 . 05 . 2022
Date of Pronouncement : 31 . 05 . 2022

O R D E R

Per : Kuldip Singh, Judicial Member:

The appellant, Shri Ratish Narayanan Nambiar (hereinafter referred to as ‘the assessee’) by filing the present appeal, sought to set aside the impugned order dated 30.07.2021 passed by the National Faceless Appeal Centre(NFAC) [Commissioner of Income Tax (Appeals), Delhi] (hereinafter referred to as CIT(A)) on the grounds inter alia that:

“1. The Ld. CIT(Appeals) has failed to consider the genuineness of Gift by mother of Rs.5,00,000/- on

reasonable ground for not having PAN and registration of Gift Deed. The mother of the Appellant is a pensioner and residing in remote village of Kerala. She is not liable to file ITR. The grounds taken by the Ld. AO and then CIT (A) is fit to be rejected and addition of Rs. 5,00,000/- may kindly be deleted.

2. Any other grounds may kindly be allowed to be urged at the time of hearing before your honour.”

2. Briefly stated facts necessary for adjudication of the controversy at hand are : assessee filed his return declaring total income of Rs.5,45,100/-. During scrutiny proceedings Assessing Officer (AO) noticed that there is huge cash deposit of Rs.55,00,000/- in his bank account during the year under consideration, out of which assessee has explained an amount of Rs.48,07,500/- having been received from sale of his agricultural land and failed to explain the amount of Rs.6,93,000/-, claimed to have been received by the assessee as gift from his mother. Consequently, AO made an addition of Rs.6,93,000/- and thereby assessed the total income of the assessee at Rs.12,38,100/-.

3. Assessee carried the matter before the Ld. CIT(A) by way of filing appeal who has restricted the addition to Rs.5,00,000/- by extending the relief of Rs.1,93,000/- by partly allowing the appeal. Feeling aggrieved the assessee has come up before the Tribunal by way of filing present appeal.

4. At the very outset it is contended by the Ld. A.R. for the assessee that assessee has received an amount of Rs.5,00,000/- as gift from his mother who is not having PAN nor filed her return of income, being a pensioner and residing in a remote village of

Kerala, but was having sufficient fund to gift the impugned amount to the assessee.

5. However, on the other hand, the Ld. D.R. for the Revenue contended that the assessee has failed to bring on record any documents as contended before the AO as well as the Ld. CIT(A) .

6. Bare perusal of the orders passed by the AO as well as the Ld. CIT(A) it has come on record that the assessee has come up with specific ground that amount of Rs.5,00,000/- was received by him as gift from his mother who is not having any PAN nor did she file any return of income, but now he produced the bank pass book containing pension entries in the name of his mother to prove that she has withdrawn the amount of Rs.5,00,000/- from her account and gave the same to the assessee.

7. It has also come on record in para 6.3 of the impugned order that mother of the assessee was drawing pension of Rs.15,000/- per month and as such was not having any taxable income to file the return of income. The assessee has brought on record copy of pension book of donor Mrs. Vishalakshmi V maintained with Central Bank of India showing the regular entries of cash withdrawal and deposits, which shows the capacity and credibility of the donor to gift an amount of Rs.5,00,000/- in cash.

8. So in view of the matter we are of the considered view that since substantial piece of evidence has been brought on record by the assessee which has yet not find scrutiny at the hands of AO, so in the interest of justice case is remitted back to the AO to treat the cash deposit in the bank of assessee having been taken from his

mother as pensioner after due verification. AO shall provide opportunity of being heard to the assessee.

9. Consequently, appeal filed by the assessee is allowed.

Order pronounced in the open court on 31.05.2022.

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

**Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

Mumbai, Dated: 31.05.2022.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.