

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “SMC”: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 1832/DEL/2019
[Assessment Year: 2011-12]

Kamaldeep Kaur, J-8/117, Rajouri Garden, New Delhi-110027 PAN- AWYPK8078J	<u>Vs</u>	Income-tax Officer, Ward-48(4), New Delhi.
APPELLANT		RESPONDENT
Appellant by		Ms. Vandna Bhandari, Adv.
Respondent by		Shri Om Prakash, Sr. DR
Date of hearing		18.08.2022
Date of pronouncement		09.09.2022

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-15, Delhi, dated 04.01.2019, pertaining to the assessment year 2011-12. The assessee has raised following grounds of appeal:

- “1. On the facts the Hon’ble assessing officer was considered the spend money of her own instead of her parents & relatives.
2. After Devorce she lived with father house unfortunately. The sad demise of father by heart attack on 03-02-2019. She felt under stress.
3. On the facts in the assessment is unjustified & Request for waiver of income tax & interest.

2. The assessee has also taken additional grounds of appeal, which read as under:

“1. That the appellant denies its liability to pay the demand raised of Rs. 2,22,864/- for the F.Y. 2010-2011.

2. That the impugned order is based upon surmises and conjecture. It is most respectfully submitted that the impugned order is ill-conceived in as much as the same has been passed on the basis of conjectures and completely ignoring the evidence brought on record as well as the settled position of law in this regard

3. On the facts and circumstances of the case , the Ld Assessing Officer was not justified on facts and in law in raising a demand ignoring the proposition laid down under proviso to section 56 (2) (v) of the Income Tax Act.

4. On the facts and circumstances of the case , the Ld Assessing Officer was not justified on facts and in law in raising a demand ignoring the proposition laid down , the gifts received by the newly wed couple from the immediate family or relatives are not taxable in India, as per income tax Act.

5. On the facts and circumstances of the case , the Ld Assessing Officer was not justified on facts and in law in raising a demand ignoring the proposition laid down the gifts that are received can be in the form of cash, property, jewellery electronic, moveable property or immovable property and so on the Income Tax Act.

6. That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing.”

3. The assessee has also taken revised ground of appeal, which reads as under:

“The AO erred in adding Rs. 7,46,804/- to total income and CIT-A erred in upholding the addition made by AO to total income of assessee, and thereby failed to appreciate the explanations and evidences furnished by the assessee.”

4. The only effective ground raised in this appeal is against sustaining the addition of Rs. 7,46,804/-.

5. Facts giving rise to the present appeal are that the Assessing Officer was having information regarding incurrence of expenses of Rs. 40,00,000/- for purchasing jewellery worth Rs. 25,00,000/- and Rs. 15,00,000/- for other articles by the assessee during the period relevant to assessment year 2011-12. Therefore, the case of the assessee was reopened for assessment and a notice u/s 148 was issued. In response to the notice the Ld. authorized representative of the assessee attended the proceedings. The Assessing Officer thereafter proceeded to frame the impugned assessment assessing income at Rs. 9,39,200/- against the declared income at Rs. 1,92,392/-. Aggrieved against this the assessee preferred appeal before the learned CIT(Appeals), who, after considering the submissions, dismissed the appeal. Aggrieved, the assessee is in appeal before this Tribunal.

6. Learned counsel for the assessee vehemently argued that the authorities below failed to appreciate the evidences placed before them. Learned counsel submitted that before learned CIT(Appeals) it was stated that loan was received from 14 people amounting to Rs. 2,15,000/-; gift received from 101 persons of Rs. 1,71,050/-; and family relatives of Rs. 3,99,500/-. It was also stated that the assessee had incurred expenses out of savings from her parents, money left by her

grand-father late Sh. S. Jiwan Singh; loan taken by her brother for her marriage to the tune of Rs. 2,60,000/- and her personal savings to the tune of R. 96,196/-. The Assessing Officer gave benefit of loan taken by her brother and expenses incurred out of her past savings. Learned counsel submitted that both the authorities failed to appreciate the fact that there is tradition in marriage of a female. She gets gift etc. and the assessee also had taken loan from various persons who have also confirmed the same, but the authorities below for the reasons best known to them have not considered the evidences.

7. On the contrary, learned DR opposed the submissions and supported the orders of the authorities below.

8. I have heard learned authorized representatives of the parties. It is seen from the record that the assessee had filed various evidences in the form of affidavit etc. The learned CIT(A) has brushed aside those evidences without even verifying the veracity of such affidavit. Merely stating that the affidavit was procured subsequent to marriage, in my considered view is not justified. The learned CIT(Appeals) ought to have verified the correctness of the claim of the assessee. I, therefore, set aside the impugned order and restore the assessment to the file of the Assessing officer to decide it afresh after considering the evidences placed by the

assessee in the form of affidavit and frame the assessment afresh. Grounds raised in this appeal are allowed for statistical purpose.

9. Appeal of the assessee is allowed for statistical purposes.

Order pronounced in open court on 9th September, 2022.

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI