

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri B.R. Baskaran (AM)

I.T.A. No. 1809/Mum/2022 (A.Y. 2011-12)

Shri Ajay V. Kapoor Bungalow No. 12 Kapoor House, Union Bank, Chembur Mumbai-400 071. PAN : AKTPK4175D (Appellant)	Vs.	ITO-27(3) Tower No. 6 Vashi Railway Station, Vashi Navi Mumbai 400 703. (Respondent)
--	-----	--

Assessee by	Shri Gul Madnani
Department by	Ms. Indira Adakil
Date of Hearing	04.10.2022
Date of Pronouncement	06.10.2022

ORDER

The assessee has filed this appeal challenging the order dated 13.5.2022 passed by the learned CIT(A), National Faceless Appeal Centre, Delhi and it relates to A.Y. 2011-12. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the addition of unexplained investment in FDs, unexplained cheque deposit and unexplained interest income aggregating to Rs. 29.49 lakhs in the hands of the assessee.

2. The learned AR submitted that assessee's brother named Shri Sanjay Kapoor is residing in Bahrain, UAE. The assessee is a heart patient and in order to meet his medical expenses, the assessee's brother has sent gifts of Rs.12.09 lakhs and Rs. 15.74 lakhs to the assessee. However, the assessee did not appear before the Assessing Officer and hence the Assessing Officer has passed an order to the best of his judgement under section 144 of the I.T. Act assessing both the amounts cited above and also certain interest income. The learned AR submitted that the assessee filed written submissions before the learned CIT(A) during the course of appellate proceedings, but they have not been properly considered by the learned CIT(A). In nutshell, the learned AR

submitted that the assessee may be provided with an opportunity to present all the relevant documents before the Assessing Officer. The learned AR further submitted that the assessee has been receiving gifts from his brother regularly and in the succeeding year i.e. A.Y. 2012-13, the Assessing Officer has accepted the fact of receipt of the gifts and did not make any addition. The Learned AR also furnished a copy of assessment order passed in the hands of the assessee for A.Y. 2012-13. Accordingly he prayed that all the issues may be restored to the file of the Assessing Officer for examining them afresh.

3. The Learned DR, on the contrary, submitted that the assessee has failed to prove the cash credits and hence, the impugned additions have been made by the Assessing Officer.

4. Having heard the rival sub mission, I am of the view that, in the interest of natural justice, the assessee may be provided with one more opportunity to present his case before the Assessing Officer, since the Assessing Officer has passed order under section 144 of the Act and assessee has also not furnished evidences before the learned CIT(A) in the online appellate proceedings. Accordingly, I set aside the order passed by the learned CIT(A) and restore all the issues to the file of the Assessing Officer for examining them afresh. The assessee is also directed to fully co-operate with the assessing officer by furnishing all the information and explanations in support of his claim. After affording adequate opportunity of being heard, the Assessing Officer may take appropriate decision in accordance with law.

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

Order pronounced in the open court on 06.10.2022.

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 06/10/2022

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

PS

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai