

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPURBENCH “SMC”, RAIPUR**

**श्री रवीश सूद, न्यायिक सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER**

आयकर अपील सं./ ITA No.175/RPR/2019

निर्धारण वर्ष / Assessment Year : 2015-16

Smt. Eppari Mangamma,
New Bus stand, Ganga Nagar
Ward, Jagdalpur, Baster,
PAN : AADPE4575F

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward- Jagdalpur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : None
Revenue by : Shri G.N Singh, Sr. DR

सुनवाई की तारीख / Date of Hearing : 11.11.2022

घोषणा की तारीख / Date of Pronouncement : 28.11.2022

आदेश / ORDER**PER RAVISH SOOD, JM**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals)-I, Raipur dated 19.04.2019, which in turn arises from the order passed by the A.O under Sec. 143(3) of the Income-tax Act, 1961 (in short 'the Act') dated 23.12.2017 for the assessment year 2015-16. The assessee has assailed the impugned order on the following grounds of appeal:

“1. That the facts and in the circumstances of the case that the A.O. has erred in making addition of Rs 2682313/- of balance cash in hand and Rs. 800000/- Bank Transaction the addition made is unjustified unwarranted and uncalled for.

2. The addition of Rs. 800000/- was already questionable and confusing. As the assessee had Rs.950000/- in her Central Bank of India account which were transferred to Samta Manoj Rs.600000/- and Urmila Gopalji Rs. 340000/- the left balance on assessee's bank account was Rs. 16093/- only but A.O. added Rs. 800000/- which was confusing and questionable. So the doubt of benefit goes to the assessee.

3. Assessee had cash amount of Rs.2500000/- which was withdrawn from I.C.I.C.I. bank during year 2011-2012. According to a person he/she is at liberty to withdraw his/her money and use it as and when required but there must be a valid reason and here the assessee kept money with herself for certain purposes like educational requirement, upcoming medical emergencies etc. so this Rs. 2500000/- were kept for the future emergency. There is no fixed amount that has to be withdrawn for emergency purposes.

As mentioned above the assessee sold her land in the year f.y. 2011-2012 and received Rs.2907138/- for selling it. And it is quite obvious that if a person sells a land, they are in need of money. And also the appellant said that Rs.20 Lakhs is unexplainable here. But in A.Y. 2012-2013 assessee had already paid Capital Gain Tax of Rs. 686571/- from the capital gain amount Rs.25 Lakhs. Tax was paid on date 28/06/2013. So as tax is paid from this amount received. Here the amount of Rs.25 Lakhs is explainable and this amount has continuously been shown by assessee in the Income Tax Return.

So as tax was paid and also amount was continuously being shown in return by assessee so it gets explainable and should be exempted and also it is double taxation should not be made, when it is already paid once.

4. The appellant reserves the right to add, amend, or alter any grounds of appeal at any time of hearing.”

2. Succinctly stated, the assessee who is deriving commission income on sale of chillies had e-filed her return of income for A.Y.2015-16 on 31.12.2016, declaring an income of Rs.2,50,000/-. The return of income filed by the assessee was initially processed as such u/s. 143(1) of the Act. Subsequently, the case of the assessee was selected for scrutiny assessment u/s. 143(2) of the Act.

3. During the course of the assessment proceedings, it was observed by the A.O that a perusal of the return of income of the assessee revealed that she had at part -A-BS of her return of income shown cash in hand of Rs.26,82,313/-. On being queried about the nature and source of the aforesaid cash in hand, it was stated by the

assessee that the same was sourced out of the sale consideration of Rs.25 lacs that was received by her on sale of residential land way back during the period relevant to A.Y.2012-13. Copy of the registered sale deed was filed by the assessee in her attempt to substantiate her aforesaid claim. Also, the assessee in order to support her aforesaid claim filed with the A.O a copy of a self-created capital account and unaudited balance sheet for the financial years 2012-13, 2013-14 & 2014-15. On further verification, it was observed by the A.O that though the assessee had filed her return of income for A.Y.2012-13 disclosing Long Term Capital Gain (LTCG) on sale of the aforesaid residential land, but had not filed her return(s) of income for the succeeding two years i.e. A.Y.2013-14 and A.Y 2014-15. Also, it was observed by the A.O that the assessee had not filed her return(s) of income for A.Y(s).2006-07, 2008-09, 2009-10, 2010-11 & 2011-12. Apart from that, it was observed by the A.O that the assessee had not filed her return of income for the immediately succeeding i.e A.Y. 2016-17. Considering the aforesaid facts, the A.O was of the view that the cash in hand of Rs.26,82,313/-(supra) that was claimed by the assessee to be available with her on 31.03.2014 was not verifiable.

4. On a perusal of the statement of the bank account that was held by the assessee with ICICI Bank Ltd. Jagdalpur, it was gathered

by the A.O that the sale consideration of the aforesaid residential land was received by the assessee through cheques in the F.Y.2011-12, which, thereafter, were withdrawn by her in cash either on the same date or on the very next date. It was observed by the A.O that except for the aforesaid transactions there were no other deposits/withdrawals in the said bank account, which, was thereafter closed on 22.04.2014. On the basis of the aforesaid facts, the A.O was of the view that the assessee had utilized the amount of sale consideration of Rs. 25 lacs in the F.Y. 2012-13 itself. Considering the aforesaid facts, the A.O called upon to the assessee to explain the utilization of the entire cash withdrawals that were made from ICICI Bank Ltd till 31.03.2015 (i.e. upto the date on which cash in hand was claimed to be available with her). However, the assessee failed to furnish any details in compliance to the aforesaid query of the A.O. On being queried as to why she had not filed her return(s) of income for A.Y(s). 2006-07, 2008-09, 2009-10, 2010-11 & 2011-12, it was stated by her that the same was for the reason that her income was below the taxable limits during the said respective years.

5. During the course of the assessment proceedings, the A.O called upon Central Bank of India, Main Branch, Jagdalpur to provide a copy of SB a/c No.1656712710 that was held by the

assessee with the said bank both for the year under consideration, as well as that for the subsequent years. On a perusal of the copy of the aforesaid bank account that was made available by the bank, it was observed by the A.O that the assessee during the period relevant to A.Y 2017-18 had in three tranches, viz. Rs. 7 lac; Rs. 7 lac; and Rs. 6 lac made cash deposits aggregating to Rs. 20 lacs on 30.12.2016 (i.e during demonetization period) in the said bank account. Further, it was noticed by the A.O that the aforesaid amount of Rs. 20 lac (supra) was thereafter transferred by the assessee on 04.02.2017 vide three different cheques to M/s. Siddharth Chillies (i.e a business concern of the assessee's husband).

6. On the basis of the aforesaid facts, the A.O was of the view that the assessee had filed her return of income for the year under consideration i.e. A.Y.2015-16 belatedly on 31.12.2016 merely as a cover up to explain the cash deposits in her bank account i.e. SB A/c. No.1656712710 with Central Bank of India, Main Branch, Jagdalpur. The A.O holding a conviction that the assessee's explanation qua the cash deposits in her bank account during the year under consideration was totally unsubstantiated, therefore, held the entire amount of cash in hand of Rs.26,82,313/- (supra) that was claimed by her to be available on 31.03.2015 as having been sourced from unexplained sources.

7. Further, on a perusal of the assessee's SB A/c. No.1656712710 with Central Bank of India, Main branch, Jagdalpur, it was observed by the A.O that the assessee during the year under consideration had made cash deposits aggregating to Rs.9.50 lacs in the said account in two tranches, viz. (i) Rs.4.80 lacs on 18.09.2014; and (ii) Rs.4.70 lacs on 19.09.2014. It was observed by the A.O that the said cash deposits were thereafter transferred by the assessee on the very next date i.e on 20.09.2014 by RTGS/NEFT to one Samta Manoj & Urmila Gopalji. Apart from the aforesaid cash deposit(s), it was observed by the A.O that there was no other transaction in the said bank account. As the assessee had failed to explain the availability of cash in hand out of that as was claimed to have been carried forward from 31.03.2012 till 31.03.2015, therefore, the A.O observing that the assessee had disclosed cash receipts of Rs. 1.50 lacs during the year under consideration, thus, held the cash deposits of Rs.8 lacs (out of Rs. 9.50 lac) in her bank account with Central Bank of India, Branch, Jagdalpur as unsubstantiated/unexplained and added the same to her returned income. As the assessee had not offered for tax the interest income of Rs.463/- credited in her aforesaid bank account, therefore, the A.O added the same as her undisclosed income. On the basis of his aforesaid deliberations the A.O vide his order passed u/s.

143(3), dated 23.12.2017 determined the income of the assessee at Rs.37,32,780/-.

8. Aggrieved the assessee carried the matter in appeal before the CIT(Appeals). Although the CIT(Appeals) concurred with the view taken by the A.O, that the assessee's claim that cash in hand of Rs. 26.82 lac (supra) available with her on 31.03.2015 was sourced out of the cash withdrawal of Rs. 25 lac (i.e the sale proceeds of residential land) that was made way back in the year 2011-12 from her bank account with ICICI Bank Ltd., Branch: Jagdalpur, was highly improbable, but at the same time was of the view that she could safely be held to have retained an amount of Rs.5 lacs (out of Rs.25 lacs) during the year under consideration and thus, on the said premises, which, I am afraid is neither in conformity with the basis nor the quantum of the addition made by the A.O, restricted the addition to Rs. 20 lacs.

9. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before me. As the assessee appellant despite having been intimated about the hearing of appeal had failed to put up an appearance, therefore, I am constrained to proceed with and dispose off the appeal as per Rule 24 of the Appellate Tribunal

Rules, 1963, i.e, after hearing the respondent revenue and perusing the orders of the lower authorities.

10. I have heard the Ld. Departmental Representative (for short 'DR') and perused the orders of the lower authorities and the material available on record. As is discernible from the assessment order, the assessee had in her return of income for the year under consideration i.e. A.Y.2015-16 had claimed to have cash in hand of Rs.26,82,313/- available with her on 31.03.2015. On being queried, it was the claim of the assessee that the said amount was sourced out of sale proceeds of a residential land that was sold by her in the period relevant to A.Y.2012-13. Admittedly, the assessee had in the period relevant to A.Y.2012-13 sold certain residential and the sale proceeds of the same were credited in her SB account with ICICI Bank Ltd. Branch : Jagdalpur. Out of the aforesaid bank account, the assessee had made cash withdrawals of the entire amount of sale proceeds either on the same date or on the date following there to. As observed by the A.O, the said bank account of the assessee with ICICI Bank Ltd. was, thereafter, closed on 22.04.2014. On being queried about the source of the cash in hand of Rs.26,82,313/- that was claimed to be available with the assessee on 31.03.2015, it was the claim of the assessee that the same was sourced out of the cash withdrawals of Rs.25 lac (supra) made from her SB a/c with ICICI Bank Ltd., Branch

: Jagdalpur i.e out of the sale proceeds of her residential land that were deposited in the said bank account. However, the said explanation of the assessee considering the aforesaid substantial time that had lapsed since F.Y.2011-12 to FY 2014-15 a/w absence of any material which would substantiate the same was rejected by the A.O. In fact, the assessee despite specifically being directed by the A.O to furnish details as regards utilization of the entire cash withdrawals from her ICICI Bank Account i.e from the date(s) of withdrawal till 31.03.2015, however, could not come forth with any explanation.

11. As observed by the A.O, the assessee had filed her return of income for A.Y.2015-16 belatedly on 31.12.2016. The assessee had made cash deposit(s) of Rs. 20 lacs in three tranches in her SB account 1656712710 with Central Bank of India, Branch Jagdalpur on 30.12.2016 i.e during the period relevant to A.Y.2017-18. On 04.02.2017, the aforesaid amount of Rs.20 lac (supra) was transferred by the assessee vide three different cheques to M/s. Siddharth Chillies (i.e the business concern of her husband). Interestingly, as observed by the A.O, and, rightly so, the assessee soon after making cash deposit(s) of Rs. 20 lac (supra) on 30.12.2016 in her bank account with Central Bank of India, Branch Jagdalpur, had belatedly filed her return of income for the year under

consideration i.e. A.Y.2015-16 on the very next day i.e on 31.12.2016. Considering the facts involved in the present case, I concur with the A.O that the assessee had filed her return of income for the assessment year 2015-16 belatedly on 31.12.2016 merely as a cover up to explain the cash deposit(s) of Rs. 20 lac (supra) that were made by her on 30.12.2016 in her bank account with Central Bank of India, Branch Jagdalpur. In sum and substance, the assessee anticipating that she would be in the times to come be called upon by the A.O to put forth an explanation about the source of cash deposit(s) of Rs.20 lacs made in her bank account with Central Bank of India, Branch Jagdalpur, had projected in her return of income for the A.Y 2015-16 the availability of cash in hand of Rs.26.82 lacs (approx.) with her on 31.03.2015. Incidentally, now when the case of the assessee for A.UY 2015-16 was selected for scrutiny assessment, and she was called upon to put forth an explanation as regards the source of the cash in hand of Rs. 26.82 lac (supra) on 31.03.2015, that the assessee had on the basis of her unsubstantiated claim tried to relate the same with the cash withdrawals of the sale proceeds of residential land of Rs. 25 lac that was made way back in the period relevant to A.Y 2012-13.

12. In my considered view, the aforesaid explanation of the assessee that the cash in hand of Rs.26.82 lacs (supra) available with

her on 31.03.2015 was sourced out of the cash withdrawals that were made way back by her from her bank account with ICICI Bank Ltd., Branch Jagdalpur in the period relevant to A.Y.2012-13, wherein the sale proceeds of residential land were deposited, considering the sufficient time gap therein involved had rightly been rejected by the A.O. In fact, I would mince no words in concurring with the A.O, that the assessee who had made an investment of Rs.20 lacs with M/s. Siddharth Chillies (supra) vide three different cheques dated 04.02.2017 drawn on her bank account with Central Bank of India, Branch : Jagdalpur, which in itself was sourced out of the cash deposit(s) of Rs.20 lacs made in the said bank account on 30.12.2016, had come forth with the aforesaid concocted explanation as regards the source of her investment by attempting to correlate the said cash deposits of Rs. 20 lac (supra) with the cash withdrawals of Rs. 25 lac (supra) that were made way back in the period relevant to A.Y 2012-13 out of her bank account with ICICI Bank Ltd.

13. As the assessee had failed to substantiate her explanation as regards the source of cash in hand of Rs.26,82,313/- that was claimed to be available with her on 31.03.2015, therefore, the same in my considered view was rightly held by the A.O to have been sourced out of her unexplained income for the year under consideration.

14. Apropos the addition of Rs.8 lac made by the A.O, I find that the genesis of the said addition finds its root in the cash deposit of Rs.9.50 lacs that was made by the assessee during the year under consideration in two tranches in her SB account No.1656712710 with Central Bank of India, Branch : Jagdalpur, viz. (i) Rs.4,80,000 (on 18.09.2014); and (ii) Rs.4,60,000/- (on 19.09.2014). The said amount was thereafter transferred on the very next date on 20.09.2014 through RTGS/NEFT by the assessee to one Samta Manoj and Urmila Gopalji respectively. As the assessee during the year had disclosed cash receipts of Rs.1.50 lacs, therefore, the A.O had held the balance amount of Rs.8 lacs [Rs. 9.50 lac (-) Rs. 1.50 lac] as the assessee's unsubstantiated/unexplained income. As the assessee had failed to come forth with any explanation as regards the source of cash deposit of Rs.8 lacs (out of Rs.9.50 lacs), therefore, in my considered view the A.O had rightly held the same as her income from undisclosed/unexplained sources.

15. Before parting, I may herein observe, that though the A.O had made two fold additions in the hands of the assessee, viz. (i) addition of unexplained cash claimed by the assessee to be available with her on 31.03.2015 : Rs.26,82,313/-; and (ii) unexplained cash deposit in the assessee's bank account with Central Bank of India, Branch Jalgaon : Rs. 8 lacs, however, I find that the CIT(Appeals) had though

correctly referred to the facts involved in the present case, but thereafter, while observing that the assessee could safely be held to be possession of cash in hand of Rs. 5 lac (out of Rs. 25 lac), had wrongly restricted the addition to an amount of Rs.20 lacs [Rs.25 Lacs (-) Rs.5 lacs]. However, as the department had not carried the order of the CIT(Appeals) any further in appeal before me, therefore, I confine myself to the appeal filed by the assessee and finding no merit dismiss the same. Thus, the **Ground of appeal No. 1 to 3** raised by the assessee are dismissed in terms of the aforesaid observations.

16. **Ground of appeal No. 4** being general in nature is dismissed as not pressed.

17. In the result, appeal of the assessee is dismissed in terms of my aforesaid observations.

Order pronounced in open court on day of 28th November, 2022.

Sd/-

(रवीश सूद/RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 28th November, 2022

***SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. The Pr. CIT-1, Raipur (C.G.)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच,
रायपुर / DR, ITAT, "SMC" Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव /Private Secretary
आयकर अपीलीय अधिकरण, रायपुर/ ITAT, Raipur