

आयकर अपीलीय अधिकरण, 'बी/एस एम सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B/SMC' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ITA No.: **867/CHNY/2022**

निर्धारण वर्ष/Assessment Year: 2010-11

Ms. MariaZeena,
No.29A, Ganapathy Street,
Royapettah,
Chennai – 600 014.

PAN: AGRPM 2133P

(अपीलार्थी/Appellant)

The DCIT,
Vs. Central Circle – 1(3),
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Shreniek Chordia, CA

प्रत्यर्थी की ओर से/Respondent by

: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 23.02.2023

घोषणा की तारीख/Date of Pronouncement

: 23.02.2023

आदेश / O R D E R

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals)-18, Chennai in ITA No.240/CIT(A)/2020-21 dated 06.09.2022. The assessment was framed by the DCIT, Central Circle 1(3), Chennai for the assessment year 2010-11 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 28.03.2013.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) confirming the action of the A.O in making addition

being cash deposits made in the bank account amounting to Rs. 18.29 Lakhs.

3. The brief facts of the case are that the A.O during the course of assessment proceedings noticed that there was cash deposit in the assessee's bank account maintained with Indian Bank, Sholinganallur Branch, amounting to Rs. 18.29 Lakhs. As the assessee could not explain or could not furnish the sources for cash deposits nor responded to any notices issued, the A.O treated the cash deposit of Rs. 18.29 Lakhs as unexplained cash deposit and added to the returned income of the assessee. Aggrieved, the assessee preferred an appeal before the CIT(A).

4. The CIT(A) after going through the submissions has not accepted the explanation of the assessee by observing in Para 7.3 & 7.4 as under:

"7.3 The appellant is not disputing the cash deposited in the bank account of Rs. 18,50,000/-, The submission of the appellant is that the amount was deposited out of the gift received from her father late Mr.Jeppiar, who is a well known politician, educationist, and industrialist. He was the founder and Chairman of Jeppiar Educational Trust and he was the Founder and Chancellor of the Sathyabama University. The Jeppiar Educational Trust, established by him, runs several well-known engineering colleges in and around Chennai. It was further submitted that Mr. Jeppiar had filed his return of income for the AY 2010-11 offering an income of Rs.50,71,619/- and also appellant's father had sufficient capital to source the Gift to his daughter. The appellant had submitted the copies of the return of income and other financials of late Mr.Jeppiar for the AY 2010-11.

7.4 I have considered the submissions of the appellant. It is settled law that when there is a cash deposit in the bank account, the onus

of proving the source lies entirely on the assessee. In this case, the appellant submitted that the source for the deposit of cash was out of cash gift received from her late father Mr. Jeppiar. Mr. Jeppiar may be having large income but the appellant had to prove that Mr. Jeppiar in fact had made the gift to her. No gift deed nor any other document was produced to prove the gift made by the appellant's father. The capital account or the documents submitted with the return of income of Mr. Jeppiar do not indicate the making of gift to the appellant. Thus, the appellant has not established with satisfactory evidence that her late father had in fact made the gift though his financial position may be sound. It is further to be noted that the appellant did not submit such explanation before the AO at the time of assessment proceedings. All things considered, I have no other alternative except to sustain the addition of Rs. 18,50,000 as unexplained cash deposited in the bank account."

Aggrieved, the assessee came in appeal before the Tribunal.

5. Before me, the Ld. counsel for the assessee stated that the cash deposit of Rs. 18.29 Lakhs is out of the gift received by her father Late Mr. Jeppiaar, who is a well known politician, educationalist and industrialist. The Ld. counsel for the assessee argued that Mr. Jeppiaar has filed his return of income for the relevant A.Y 2010-11 offering an income of Rs. 50,71,619/- and there is sufficient capital to source the gift to his daughter. The Ld. counsel for the assessee, hence, requested that the appeal be allowed.

6. On the other hand, the Ld. Sr. D.R heavily supported the order of A.O and that of the CIT(A). He argued that the assessee neither before A.O nor before CIT(A) has filed any details in regard to the cash deposit of Rs. 18.29 Lakhs and hence, the A.O rightly added the same as unexplained cash deposits to the returned income of the

assessee. The CIT(A) has also recorded a finding of fact that the assessee could not produce any evidence that her father has given gift or any gift deed or the bank account of her father or the assessee. Hence, he requested the Bench to uphold the orders of lower authorities.

7. After hearing both the sides and going through the facts and circumstances of the case, I am of the view that the assessee could not produce anything before A.O or before CIT(A), despite opportunity given. The assessee has made cash deposit of Rs. 18.29 Lakhs in Indian Bank, Sholinganallur Branch, and this transaction is reflected in AIR information available with the Department. Even, the assessee has not submitted any documents that she has received gift from her father out of sufficient capital available with Mr. Jeppiaar, the assessee's father. I noted that the assessee has made more submissions that she has received gift from her later father Mr. Jeppiaar, could not submit any of the document. For this, the Ld. counsel for the assessee reasoned that the CIT(A) has allowed one opportunity and posted the case in which written submissions filed by the assessee, but has not allowed sufficient opportunity. He stated that the assessee has filed copy of return of income along with financials as Annexure 2 & 3 of father before CIT(A), but he has not considered the same. When a query was put

to the Ld. counsel for the assessee, he stated that he has no financials available with him now but he is ready to produce before the lower authorities in case any material returned back to the A.O. After hearing the Ld. counsel, I find that the assessee has filed some details before CIT(A) i.e., copy of return of assessee's father in respect of financials of her father which was enclosed in assessee's reply as Annexure 2 & 3. I noted that these details need to be verified and the assessee is directed to present himself before the A.O in set aside assessment and will co-relate each cash deposit entries vis-a-vis the sources. In term of the above, the orders of lower authorities are set aside and the matter is remitted back to the file of A.O for fresh adjudication.

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

Order pronounced in the open court on 23rd February, 2023 at Chennai.

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 23rd February, 2023

EDN

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त /CIT 4. विभागीय
प्रतिनिधि/DR 5. गार्ड फाईल/GF.