

आयकर अपीलीय अधिकरण, 'ए' / SMC न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' /SMC BENCH, CHENNAI
श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT

आयकरअपीलसं./I.T.A.No.237/Chny/2023

(निर्धारणवर्ष / Assessment Year: 2013-14)

Mr. Sankaranarayanan R.Sundar Raj No.11, Valliooor, Tirunelveli-627 117.	Vs	The Income Tax Officer, Ward-4, Tirunelveli.
PAN: BAEPS 0098F		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. P.M. Kathir, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. S.Chandrasekaran, JCIT

सुनवाईकीतारीख/Date of hearing	:	09.03.2023
घोषणाकीतारीख /Date of Pronouncement	:	10.03.2023

आदेश / ORDER

This appeal filed by the assessee is arising out of order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi vide appeal No. ITBA/NFAC/S/250/2022-23 / 1047912180(1) dated 09.12.2022. The assessment was completed by the DCIT/ACIT/ITO., National Faceless Appeal Centre (NFAC), Delhi for the relevant assessment year 2013-14 u/s.147 r.w.s 144B of the Income Tax Act, 1961 (hereinafter "the Act") vide order dated 20.09.2021.

2. At the outset, the learned counsel for the assessee submitted that there is a delay of 16 days in filing the appeal. He submitted that the impugned order was served on the

assessee through income-tax e-filing portal and it was noticed by the assessee belatedly. Hence, there is a delay of 16 days occurred, which is neither willful nor wanton. Therefore, he prayed that in the interest of justice, the delay may be condoned. After hearing both sides and upon perusing affidavit filed by the assessee for condonation of delay, I condone the delay of 16 days in filing of appeal and admit appeal for adjudication.

3. The only issue in this appeal of the assessee is against order of the CIT(A) upholding addition of Rs.5.00 lakhs as unexplained money adding u/s.69A of the Act.

4. Brief facts are that the assessee during the financial year 2012-13 relevant to the assessment year 2013-14 purchased Bolero LX car with registration No. TN 72AW 8793 on 18.04.2012 for a sum of Rs.6,88,930/- from M/s.Kodai Cars Pvt.Ltd., Tirunelveli. The source of purchase of this car was mainly loan amount of Rs.5.40 lakhs obtained from M/s. Mahindra & Mahindra Financial Services Pvt.Ltd. and the assessee remitted monthly installment of Rs.12,760/- upto December, 2012 towards vehicle loan. Thereafter, due to

financial constraints, the assessee could not pay said loan from January, 2013 onwards and hence, he sold the vehicle to one Mr.R.Vallinayagam, resident of No. 60, Salai Street, Megalingapuram, Tirunelveli. This car was sold to Mr.R.Vallinayagam for a consideration of Rs.4,50,000/- on 07.01.2013. The outstanding loan as on that date i.e., 07.01.2013 was Rs.4,96,350/- towards M/s. Mahindra & Mahindra Financial Services Pvt.Ltd. The assessee utilized sale proceeds of Rs.4.50 lakhs plus proceeds of jewel loan of assessee's wife amounting to Rs.46,350/- settled the outstanding loan of Rs.4,96,350/-. Subsequently, after completion of legal formalities of RTO, title of the car was transferred in the name of Mr.Vallinayagam on 18.02.2013.

5. The Assessing Officer noted on perusal of registration certificate that car was actually purchased by Mr.Vallinayagam on 11.05.2012 and claim of assessee that car was initially purchased by him on 11.05.2012 is not correct with the facts. Therefore, he made addition of this Rs.4.50 lakhs claim to have been source from sale of car to Mr.Vallinayagam. Similarly, the Assessing Officer also rejected source for cash of Rs.50,000/-

repaid to M/s. Mahindra & Mahindra Financial Services Pvt.Ltd. out of jewel gold loan proceeds availed by the assessee's wife, as no documentary evidence was produced before the Assessing Officer. Accordingly, added entire amount of Rs.5.00 lakhs as unexplained money u/s.69A r.w.s 115BBE of the Act. Aggrieved the assessee preferred appeal before the CIT(A).

6. The CIT(A) also confirmed action of the Assessing Officer by observing in para 4.6 of his order as under:-

“4.6 The evidences furnished by the appellant make it clear that a loan was availed from M/s. Mahindra & Mahindra Financial Services Ltd. which was later repaid by cash deposit of Rs.5,00,000/-. This amount apparently was repaid out of sale proceeds of car of Rs.4,50,000/- received from Mr. Vallinayagam and out of jewel (gold) loan proceeds availed by assessee's wife of Rs.46,350/-. During appeal proceedings, the copy of registration certificate from State Transport Department shows that vehicle bearing registration No. TN 72AW 8793 was registered on 16.05.2012 in the name of Vallinayagam R., son of Ramakrishnan, resident of 60 Salai Street, Megalingapuram, Tirunelveli, Tamil Nadu 627001 and that the previous owner was Sundarraaj. The previous copy of registration certificate from State Transport Department filed on 27.09.2022 has a hand written note below which states that the purchase value of Bolero LX was Rs.6,88,930/-, for which a loan of Rs.5,40,000/- was availed on 11.04.2012 and subsequently it was sold for Rs.4,50,000/- and loan of Rs.4,96,360/- was repaid on 07.01.2013. However, there is no documentary evidence

regarding the veracity of the hand written note below the copy of registration certificate from State Transport Department. During appellate proceedings in this case, the appellant has not substantiated his claim that the source for cash of Rs. 46,350/- was gold loan availed by his wife, with any documentary evidence. The appellant has also not explained the source of Rs.1,48,930/- which is the difference between the purchase cost of car of Rs.6,88,930/- and the loan amount of Rs.5,40,000/-."

7. I have heard contentions and gone through facts and circumstances of the case. Before me, the learned counsel for the assessee filed copy of registration certificate issued by State Transport Department which clearly reveals that vehicle was transferred in the name of R.Vallinayagam on 18.02.2013, whereas previous owner was Mr. S.Sundar Raj (the present assessee). Actually, the assessee purchased Bolero LX Car on 18.04.2012, which was registered in assessee's name on 16.05.2012 for a sum of Rs.6,88,930/- from Kodai Cars Pvt.Ltd, Tirunelveli. The assessee sold this car to one Mr.Vallinayagam for consideration of Rs.4.50 lakhs on 07.01.2013 and after completion of legal formalities at RTO, title of the car was transferred in the name of Mr. R.Vallinayagam on 18.02.2013, the certificate issued by State Road Transport i.e., registration

certificate clearly reveals this. Even, in the invoice of Kodai Cars Pvt Ltd. submitted by the assessee regarding purchase in his favour is clearly dated 18.04.2012 and this car was actually purchased by the assessee on 18.04.2012 by raising finance from M/s. Mahindra & Mahindra Financial Services Pvt.Ltd. The account statement of M/s. Mahindra & Mahindra Financial Services Pvt. Ltd. also depicts first installment as on 11.04.2012 and due amount shown as Rs.13,220/- which was received by M/s. Mahindra & Mahindra Financial Services Pvt.Ltd. on 11.04.2012. This clearly reveals that the assessee purchased this car only on 18.04.2012 and sold the car to one Mr.Vallinayagam on 07.01.2013, which was actually transferred by RTO on 18.02.2013. Hence, there is no dispute about facts and payment made by Mr.Vallinayagam on 07.01.2013 was repaid by the assessee against loan outstanding of M/s. Mahindra & Mahindra Financial Services Pvt.Ltd.. Hence, I find no infirmity in the explanation of the assessee and I accept this amount of Rs.4.50 lakhs as explained.

8. Coming to explanation of the assessee in regard to proceeds of jewel loan by assessee's wife for a sum of

Rs.46,350/- explaining source of deposit with M/s. Mahindra & Mahindra Financial Services Pvt.Ltd. of Rs.4,96,350/-. The learned counsel for the assessee drew my attention to account statement of assessee of IDBI bank, wherein there is credit entry on account of jewel loan of Rs.1,44,419/-. The assessee tried to explain this entry. But, apart from assessee's bank statement, he could not submit that this amount has been received against jewel loan. Hence, to that extent, I confirm the addition. The appeal of the assessee is partly allowed.

9. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on 10th March, 2023

Sd/-

(महावीर सिंह)

(Mahavir Singh)

उपाध्यक्ष/ Vice-President

चेन्नई/Chennai,

दिनांक/Dated 10.03.2023

DS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.