

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No.	निर्धारण वर्ष / A.Y.	अपीलार्थी / Appellant	प्रत्यर्थी / Respondent
1818/Hyd/19	2013-14	Bala Tripura Sundari, Mukkamala, Bachpalle, Ranga Reddy [PAN : AERPM5101K]	DCIT, Circle-2(1), Hyderabad
1819/Hyd/19	2014-15		

निर्धारिती द्वारा/Assessee by: Shri Pawan Kumar Chakrapani, AR
राजस्व द्वारा/Revenue by: Shri Kumar Aditya, DR

सुनवाई की तारीख/Date of hearing: 06/03/2023
घोषणा की तारीख/Pronouncement on: 16/03/2023

आदेश / ORDER

PER K. NARASIMHA CHARY, JM:

Aggrieved by the order(s) passed by the learned Commissioner of Income Tax (Appeals)-2, Hyderabad ("Ld. CIT(A)"), in the case of Smt. Bala Tripura Sundari Mukkamala ("the assessee") for the assessment years 2013-14 & 2014-15, assessee preferred these appeals. For the sake of convenience, we dispose of these appeals by way of this common order, taking ITA No. 1818 /Hyd/2019 as a lead case.

2. Brief facts of the case are that the assessee is an individual, and Director in M/s. Involute Institute of Technical Training Pvt. Ltd. She is a non-filer. A deposit to the tune of Rs.20,73,992/- was found in the bank account of the assessee during the financial year 2012-13 relevant to the assessment year 2013-14. Since the assessee had taxable income, but did not file the return of income, issuing notice under section 148 of the Income Tax Act, 1961 (for short "the Act"), the learned Assessing Officer initiated the proceedings under section 147 of the Act. Assessee filed the return of income declaring only Rs.3,09,400/-. Assessment was complete by order dated 29/12/2017 by making an addition of Rs.20,73,992/- under section 68 of the Act on account of cash deposits.

3. Assessee preferred appeal before the learned CIT(A) and contended that her father was a qualified engineer and one of the technocrats in Bangalore industrial estate and he gave gold jewelry at the time of the marriage of the assessee in the year 1998. Apart from that the family of the assessee was running a family business of manufacturing of automation equipment to the die casting industry apart from the mother of the assessee funding the business of the assessee by giving her valuable gold jewelry which was sold based on the requirements of the business and investment purpose.

4. Assessee further contended before the learned CIT(A) that a sum of Rs. 2,72,800/- that was deposited on 22/6/2012 was the amount received by her towards reimbursement from the company; that a sum of Rs.5.34 lakhs deposited on 1/3/2013 represents the amount of Rs.3,32,500/- funded by her family members for development of business and another sum of Rs. 2.03 lakhs taken on loan. A sum of Rs. 8.5 lakhs deposited on 1/3/2013 was derived by her by the sale of jewelery which was presented to her by father at the time of her marriage and the gold jewelry given by her mother.

5. Learned CIT(A) obtained remand report from the learned Assessing Officer. In the remand report learned Assessing Officer recorded that the deposit of Rs. 2,72,800/- deposited on 22/6/2012 and a sum of Rs. 3,32,500/- deposited on 1/3/2013 were considered as explained but insofar as the other amounts are concerned there is no proof in respect of them.

6. Learned CIT(A) accepted the findings of the learned Assessing Officer in respect of the amounts which were considered as explained. Learned CIT(A) further accepted the explanation of the assessee in respect of the deposit of Rs. 4,16,192/-. Learned CIT(A), however, did not accept the explanation of the assessee in respect of sale of gold jewelry on the ground that there is no confirmation in respect of such sale and also that there cannot be such sale for cash in view of the provisions under section 40A of the Act. The assessee, therefore, got a relief to the tune of Rs. 10,18,552/- and the addition was confirmed to the extent of Rs. 10.55 lakhs.

7. Assessee is, therefore, aggrieved and preferred this appeal stating that the sale of jewellery given to the assessee by her parents should have been accepted and so also the amount withdrawn from postal deposit.

8. Learned AR submitted that the suspicion of the authorities about the existence of Meenakshi Jewellers is baseless because the Google Maps clearly show the address of such Meenakshi Jewellers as existing in AK Complex, Shop No. 9 and 10, Shapoor Nagar, IDA Jeedimatla. He further submitted that the employee of Meenakshi Jewellers was examined by the learned Assessing Officer and the receipts issued by such Meenakshi Jewellers was produced before the authorities. He vehemently contended that since such shop is now remain closed, the assessee is unable to file any confirmation or to produce such persons for examination by the authorities. At this length of time, the assessee is helpless and prays that the receipts may be accepted. In respect of the sum of Rs. 2.05 lakhs, it is

the submission that the postal deposits in the name of the mother of the assessee were withdrawn and deposited in her account, her mother expired in the year 2017 and the relevant documents are not in the possession of the assessee. He, therefore, prayed that the same may be considered on the point of view of natural justice.

9. Per contra, learned DR submitted that the bills produced by the assessee are not in proper form, and they are issued only on the letterhead of one Meenakshi Jewellers, which is unlikely in business transactions. Apart from this he submitted that the so-called employee of Meenakshi Jewellers could not prove his employment with such firm. He submitted that even otherwise there cannot be such transactions for such huge amount in cash, and such a transaction is in violation of the provisions under section 40A of the Act.

10. We have gone through the record in the light of the submissions made on either side. The disallowed amount of Rs. 10.55 lakhs comprises of Rs. 2.05 lakhs and Rs. 8.5 lakhs realised by her on the sale of jewellery. Coming to the sum of Rs. 2.5 lakhs which according to the assessee is relatable to the sum given by her mother after withdrawn from the postal deposits and the relevant record is not available with the assessee because her mother expired in the year 2017. Considering the smallness of the amount and also the explanation of the assessee, we do not think that such a deposit could be suspected. It could be natural that the assessee may not be possessing the record relating to such withdrawal of postal deposits. Considering the circumstances, we are inclined to accept the explanation of the assessee and direct the learned Assessing Officer to delete the addition to the extent of these Rs.2.05 lakhs.

11. The other amount of Rs. 8.5 lakhs is a fraught with to circumstances like no evidence as to such sale and that such a transaction is in violation of the provisions of section 40A of the Act. Both the authorities below dealt with this issue in detail. Learned CIT(A) recorded that one Meenakshi

Jewellers is not traceable, assessee securing the bills casts an amount of doubt on the genuineness of such bills. According to the learned CIT(A) when such bills could have been produced, the assessee could have produced the person who signed it. When the assessee cannot ascertain the person who signed the bills and does not know his identity but securing such bills a suspicious. Insofar as this jewelry transaction is concerned, absolutely there is no evidence and the bills instead of helping the assessee, are creating suspicion about the transactions.

12. In the circumstances, we do not find any reason to interfere with the findings of the authorities below. We accordingly uphold the same and confirmed the addition to the tune of Rs. 8.5 lakhs. Assessee, therefore, gets relief in part only to the extent of Rs. 2.05 lakhs.

13. Now coming to the assessment year 2014-15, there was an addition of Rs. 11.07 lakhs on account of the unexplained sources for purchase of motor car and cash deposits to the tune of Rs.41.96 lakhs on various dates. According to the learned Assessing Officer, the explanation of the assessee that the loans were taken for investing in training Institute cannot be accepted for want of identity of the creditors, their creditworthiness and the genuineness of the transactions.

14. In the remand report, the learned Assessing Officer found that the claim of the assessee in respect of the loans to the tune of Rs. 4.99 lakhs can be considered as explained. In respect of the source for purchase of car, the same can be accepted for a sum of Rs. 10 lakhs. He stated that the alleged sale of jewellery cannot be accepted and, therefore, the addition made on that account to the tune of Rs. 25 lakhs and a sum of Rs. 1.07 lakhs out of the source for purchase of car cannot be accepted.

15. Learned CIT(A), having considered the remand report accepted the same confirming the addition to the extent of Rs. 35.48 lakhs and granted

relief to the tune of Rs. 17.55 lakhs. Assessee is aggrieved by the confirmation of the addition.

16. Insofar as the alleged of sale of jewellery is concerned, the facts are quite similar to the assessment year 2013-14 and for similar reasons, we uphold the addition which is Rs. 33 lakhs. Learned Assessing Officer further found that the assessee explained satisfactorily the deposits to the tune of Rs. 4.99 lakhs. It leaves a sum of Rs. 3.97 lakhs which according to the assessee forms part of the withdrawals of Rs. 4,88,670/- on various dates. According to the learned Assessing Officer out of this amount a sum of Rs. 1,41,400/- cannot be accepted as unexplained. We agree with the authorities below since the cash flow statement drawn by the learned Assessing Officer is not disputed or disproved.

17. According to the learned Assessing Officer, in the remand report the assessee furnished the confirmation letter from Mr. Chary and the Axis Bank ledger for a sum of Rs. 10 lakhs and the balance of Rs. 1.07 lakhs remain unexplained. Assessee submitted that the balance of amount was paid out of her personal savings. There is no reason not to believe this expression of the assessee. We accept the contention of the assessee and grant relief to the tune of Rs.1.07 lakhs in respect of car. To this extent appeal of the assessee is allowed and the rest of the additions are confirmed.

18. In the result, appeals of both the years are allowed in part.

Order pronounced in the open court on this the 16th day of March, 2023.

Sd/-

(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Hyderabad, Dated: 16/03/2023

TNMM

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

1. Smt. Bala Tripura Sundari Mukkamala, H.No. 7-196, NRI Colony,
Pragathi Nagar, Nar Jagan Studios, Bachpalle, Ranga Reddy.
2. DCIT, Circle-2(1), Hyderabad.
3. Pr.CIT-2, Hyderabad
4. DR, ITAT, Hyderabad.
5. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD