

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “C” DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
&  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A No.6383/DEL/2018  
Assessment Year 2009-10

Assistant Commissioner of Income Tax, Central Circle-8, New Delhi.	v.	Shri Krishan Kumar, C-20, Duggal Colony, Devli Road, Khanpur Village, New Delhi.
TAN/PAN: AAEPK8794P		
(Appellant)		(Respondent)

Assessee by:	Shri Neeraj Mangal, CA		
Department by:	Shri C.P. Pathak, CIT(DR)		
Date of hearing:	24	04	2023
Date of pronouncement:	27	04	2023

**ORDER**

**PER PRADIP KUMAR KEDIA, A.M.:**

The captioned appeal has been filed by the Revenue against the order of the Commissioner of Income Tax (Appeals)-XXIV, New Delhi ('CIT(A)' in short) dated 18.07.2018 arising from the assessment order dated 29.12.2016 passed by the Assessing Officer (AO) under Section 153C/153A r.w. Section 144 of the Income Tax Act, 1961 (the Act) concerning AY 2009-10.

2. As per the grounds of appeal, the Revenue has challenged the order of the CIT(A) in deleting the addition of Rs.7,14,000/- made by the Assessing Officer on account of alleged unaccounted receipts from relative of the assessee, Shri

Nagendra.

3. Briefly stated, the assessee filed return of income declaring total income at Rs.16,01,190/- for Assessment Year 2009-10 in question. Consequent upon search at the premises of Karan Luthra group of assessee on 14.03.2014 under Section 132 of the Act, the proceedings under Section 153C was initiated against the assessee. The Assessing Officer in the course of assessment noticed that as per the bank account of Shri Nagendra maintained at Punjab National Bank, it was noticed that there are certain debits and credits entries in the name of the assessee herein. The assessee failed to explain the nature of transactions carried out with Shri Nagendra. Based on the entries appearing in the bank account of Shri Nagendra aggregating to Rs. 7,14,000/- was added in the hands of the assessee as undisclosed receipt.

4. Aggrieved, the assessee preferred appeal before the CIT(A). Before the CIT(A), the assessee explained the transactions carried out. The CIT(A) obtained the remand report from the Assessing Officer on the submissions and documentary evidences placed before it and found merit in the plea of the assessee. The CIT(A) thus reversed the action of the Assessing Officer and deleted the additions so made. The relevant operative paragraph is reproduced hereunder for ready reference:

*4.2 Only addition in this assessment year is of Rs. 7,14,000/-. On perusal of the statement of bank account (No.1514000100940210) maintained with Punjab National Bank in name of Sh. Nagendra who is brother-in-law (wife's brother) of the appellant, the A noticed*

*that there were following debit entries where narration had shown the name of the appellant. The AO made the addition for want of any representation from the side of the appellant. This addition has been contested vide ground no.1.*

<i>Transaction Date</i>	<i>Particulars</i>	<i>Debit Amount (Rs.)</i>	<i>Credit Amount(Rs.)</i>
<i>29.08.2008</i>	<i>Krishan Kumar</i>	<i>4,70,000</i>	
<i>01.09.2008</i>	<i>Krishan Kumar</i>	<i>2,00,000</i>	
<i>17.11.2008</i>	<i>Krishan Kumar</i>	<i>22,000</i>	
<i>10.01.2009</i>	<i>Krishan Kumar</i>	<i>22,000</i>	
<i>Total</i>		<i>7,14,000</i>	

*4.3 During the appellate proceedings, the argument of the AR were two folds. Firstly, AR stated that Sh. Krishan Kumar is brother in law of Sh. Nagendra and therefore, such payment is exempted u/s 56(2)(vi). Secondly, it is contention of the AR that this money has actually been paid back in subsequent years which is evident from the entries in the statement of the same bank account in this assessment year and the subsequent assessment years.*

*4.4 The relevant portions of provisions of section 56(2)(vi) are reproduced below:*

*“56. (1) Income of every kind which is not to be excluded from the total income under this Act shall be chargeable to income-tax under the head "Income from other sources", if it is not chargeable to income-tax under any of the heads specified in section 14, items A to E.*

*(2) In particular, and without prejudice to the generality of the provisions of sub-section*

*(1). the following incomes, shall be chargeable to income-tax under the head "Income from other sources", namely: -*

*(i) .....*

*.....*

*vi) where any sum of money, the aggregate value of which exceeds fifty thousand rupees, is received without consideration, by an individual or a Hindu undivided family, in any previous year from any person or persons on or after the 1st day of April, 2006 but before the 1st day of October, 2009, the whole of the aggregate*

*value of such sum:*

*Provided that this clause shall not apply to any sum of money received-*

*(a) from any relative; or*

*(e) "relative" means.-*

*(i) in case of an individual-*

*(A) spouse of the individual;*

*(B) brother or sister of the individual;*

*(C) brother or sister of the spouse of the individual;*

*(D) brother or sister of either of the parents of the individual;*

*(E) any lineal ascendant or descendant of the individual;*

*(F) any lineal ascendant or descendant of the spouse of the individual;*

*(G) spouse of the person referred to in items (B) to (F); and"*

*4.5 Therefore, brother-in-law would be covered under the definition of*

*'relative' and hence, money received from the brother-in-law' cannot be taxed.*

*4.6 Vide letter of this office dated 12.03.2018, the AO was specifically asked to comment on this argument. The AO vide her letter dated 23.03.2018, submitted a combined reply for A.Ys. 2009-10, 2010-11 and 2011-12 which stated as under:*

*"5. Further, through the above referred letter, the comments regarding the applicability of section 56(2)(vi) has been specifically sought. In this regard, it is submitted that case of the assessee belongs to Karan Luthra Group of cases. This group was found to be involved in various property transactions, many done in cash, without offering any tax on such transactions. In such a scenario, the transaction between different parties of the group cannot be termed transaction under section 56(2)(vi). Further, the amount involved in such transaction has to be verified in the hands of the either party. Since, during the assessment proceedings both the parties i.e. Sh. Nagender and Shri Krishan Kumar remained non-complaint and it is very much possible that amount involved pertains to some undisclosed property transaction, it cannot be termed as transaction u/s.56(2) of the Act.*

*4.7 It can be seen that the AO has not disputed the fact that Sh. Nagendra is covered by the above mentioned definition of relative'. There is no material to even suspect (what to talk of (to) prove) that these transactions were forming a consideration for some*

*other transaction. In fact, multiplicity of such transactions for receipt as well as payment suggest that these cannot be said to be connected to any property transaction. On the face of it, these appear to be transactions of simple receipt and payment of money between two relatives. Pure and simple transaction of receiving money from a person who is covered under above mentioned definition of relative, cannot be taxed. Therefore, this addition is liable to be deleted because of this argument, alone.*

*4.8 Regarding, the other argument, the AR did not deny these transactions but stated that the AO has not considered all such transactions. The AR submitted copy of a chart showing transactions of this assessment year as under:*

<i>Date</i>	<i>Receipt</i>	<i>Payment</i>	<i>Balance</i>
29/08/2008	4,70,000		4,70,000
01/09/2008	20,00,000		6,70,000
03/10/2008		4,00,000	2,70,000
17/11/2008	22,000		2,92,000
10/01/2009	22,000		3,14,000
	12,80,000	4,00,000	

*4.9 The AR argued that actually there was a receipt of Rs. 12,80,000/-and also there was payment of Rs.4,00,000/-. Therefore, net receipt was of Rs.8,80,000/-. The AR also submitted such chart for next assessment year (A.Y. 2010-11), showing that there was a total receipt of Rs. 38,65,000/- whereas the payments were of Rs. 47,90,000/- which means that there was excess payment of Rs. 9,25,000/-. The said chart is reproduced below.*

<i>Date</i>	<i>Receipt</i>	<i>Payment</i>	<i>Balance</i>
13/04/2009	2,10,000		2,10,000
30/04/2009	70,000		2,80,000
14/05/2009		40,000	2,40,000

28/05/2009	4,00,000		6,40,000
08/06/2009	9,00,000		15,40,000
26/06/2009	4,80,000		20,20,000
07/07/2009	6,00,000		26,20,000
13/08/2009		3,50,000	22,70,000
10/11/2009	2,00,000		24,70,000
13/11/2009		5,00,000	19,70,000
17/12/2009		70,000	19,00,000
21/12/2009		2,00,000	17,00,000
24/12/2009		2,00,000	15,00,000
04/01/2010		2,00,000	13,00,000
05/01/2010		9,00,000	4,00,000
12/01/2010	1,00,000		5,00,000
08/02/2010	2,00,000		7,00,000
29/03/2010		23,30,000	-16,30,000
30/03/2010	7,05,000		-9,25,000
	38,65,000	47,90,000	

4.10 The above stated arguments were part of written submissions (received during hearing dated 19.03.2018) which were forwarded to the AO for comments vide letter dated 19.03.2018. The A replied vide her letter dated 23.03.2018. The relevant portion of the reply is reproduced below:

"As submitted in para 5 above, the assessee was involved in various unaccounted property transactions and so were his relatives, either individually or jointly, therefore, the transactions among them cannot be termed as transactions u/s 56(2)(vi) of the Act. Further, the assessee is stating that there were also debit entries. This fact was available on record during the assessment proceedings and the AO had held cognizance of the same. These transactions were held as related to undisclosed property transaction in the absence of any explanation, purpose, utilisation, supporting documents and therefore added to the total income of

*the assessee."*

*4.11 As observed earlier, it can be seen from perusal of these two charts (for AY. 2009-10 and 2010-11) that these are transaction of simple receipts and payments of money. There is no material on record to even suspect that these transactions are part of any property transaction. On the contrary, the multiplicity of such transaction (of receipt as well as payment) suggest that these cannot be said to be connected to any property transaction. Also, it can be seen that the AO has not disputed the fact of the transactions of receipt and payment shown by the appellant as per the charts submitted for this assessment year as well as subsequent assessment years. Therefore, the averment of the appellant that this money was received with attached liability to pay (later), cannot be brushed aside. Therefore, this addition is liable to be deleted because of this argument also.*

*4.12 In view of the above discussion, this ground (no.1) of appeal is allowed and as a consequence, this addition (of Rs.7,14,000/-) is deleted."*

5. Aggrieved by the relief granted by the CIT(A), the Revenue is in appeal before the Tribunal.

6. The Id. DR for the Revenue relied upon the assessment order.

7. The Id. counsel for the assessee, on the other hand, relied upon the detailed reasoning given by the CIT(A) while granting the relief.

8. On perusal of the order of the CIT(A), it is noticed that the banking transactions have been carried out between the assessee and Shri Nagendra who happens to be brother-in-law of the assessee. It is further noticed that the receipt by banking channel from Shri Nagendra has been settled by the assessee in the subsequent years. The CIT(A) observed that the transactions are simple receipt and payment transactions between two relatives and has no connection with any property transaction.

9. We find that the CIT(A) has examined the issue threadbare and has given his objective considerations to the facts in issue. In the absence of any material on record contrary to the version of the assessee, the CIT(A) has given relief in accordance with law. We see no error in the findings given by the CIT(A). We thus decline to interfere therewith.

10. In the result, the appeal of the Revenue is dismissed.

**Order pronounced in the open Court on 27/04/2023.**

Sd/-

**[KUL BHARAT]  
JUDICIAL MEMBER**

DATED: **/04/2023**

*Prabhat*

Sd/-

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**