

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

**ITA No. 212/Mum/2023
(A.Y.2016-17)**

Rajendra Vithal Avasare 6a, Bhaskar, Naikwadi, Goregaon East Maharashtra - 400063	Vs.	CIT-Appeals NFAC, Delhi
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: ABXPA0468L		
Appellant	..	Respondent

Appellant by :	K.K. Lalkaka
Respondent by :	C.T. Mathews

Date of Hearing	23.03.2023
Date of Pronouncement	12.04.2023

आदेश / ORDER

Per Amarjit Singh (AM):

The present appeal filed by the assessee is directed against the order passed by the NFAC, Delhi dated 05.01.2023 for A.Y. 2016-17. The assessee has raised the following grounds before us:

- “1. On the facts and in the circumstances of the case and in law, the learned CIT (A) has erred by holding the Order of the Assessing Officer in making addition of (Rs.1,59,538/- less Rs.36,887/-) by ignoring the salary certificate in Form No. 16 issued by the Reserve Bank of India upholding the order of the Income Tax Officer, a limb of the Government and also by not taking into consideration the further Clarificatory Certificate issued by the Reserve Bank of India stating that all payments credited to assessee's bank account have been taken into account from calculating TDS and salary.
2. On the facts and in the circumstances of the case and in law. the Learned Assessing Officer has erred in making an addition of Rs.3,00,000/- being genuine gift received from his son, Aditya Avasare although trinity of evidence namely identity, genuineness and creditworthiness of the donor has been amply established with foolproof evidence by the Appellant and further Remand Report issued by the Assessing Officer approving the genuineness of the gift.

Your Appellant craves leave to add, amend, alter one or more Grounds of Appeal at the time of hearing of the Appeal Petition.”

2. Fact in brief is that return of income declaring total income of Rs.22,21,060/- was filed on 29.04.2016. The case was subject to scrutiny assessment and notice u/s 143(2) of the Act was issued on 17.07.2017. During the course of assessment the A.O observed that there was omission of salary income to the amount of Rs.1,59,538/-, therefore, the same was added to the total income of the assessee. The A.O has also noticed that assessee has received gift of Rs. 3 lac from his son during the year under consideration. On query, during the course of assessment the assessee explained that source of gift was out of long term capital gain. However, the A.O has not accepted the submission of the assessee for want of supporting evidences, therefore, the amount of Rs.3 lac was treated as unexplained credits as per the provisions of Section 69A of the Act and added to the total income.

3. Aggrieved, the assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee.

4. During the course of appellate proceedings before me the ld. Counsel filed paper book comprising details and copies of document filed before the lower authorities. The ld. Counsel submitted that during the course of proceeding before the ld. CIT(A) it was clearly established with the supporting evidences i.e certificate from the Reserve Bank of India that all the perquisite received by the assessee have been included in his total income after calculating TDS on salary. The ld. Counsel referred the other various pages of the paper book wherein relevant supporting document i.e certificate issued by Reserve Bank of India along with statement of account of the assessee and explained that all the payment received from the Reserve Bank of India have been included in the salary of the assessee. Regarding loan amount of Rs.3 lac received from the son of the assessee, the ld. Counsel referred remand

report and revised computation of income copy of challan of taxes paid by the son of the assessee on the capital gain earned from the proceeds of mutual funds.

On the other hand, the ld. D.R relied on the order of the lower authorities.

5. Heard both the sides and perused the material on record. The assessee is a retired employee of the Reserve Bank of India. The A.O during the course of assessment on reconciliation of figures in the bank statement with the employer certificate came to the conclusion that Rs.1,59,538/- has not been included in the assessee's salary. During the course of appellate proceeding before the ld. CIT(A) the assessee has further submitted a certificate issued by the Reserve Bank of India as additional evidences that during the year under consideration the assessee's bank account has directly been credited with reimbursement of expenses amounting to Rs.36,887/- arrears of salary of Rs.13,642/- and Rs.20,958/- as conveyance allowance. The assessee also submitted that Reserve Bank of India has also certified that all the payments credited to the assessee's bank account have been taken into consideration for calculating TDS on salary. The assessee also submitted that amount certified by the employer as direct credits tally with the credit in the bank statement of the assessee for the relevant period. The assessee also explained that as per part (B) Annexure to Form 16, the total amount of perquisites received by the assessee during the year under consideration amounting to Rs.2,25,006/- has already been included in the total income. In this regard, I have perused the copy of certificate issued by the Reserve Bank of India placed in the paper book giving the bifurcation of reimbursement of different expenses to the assessee directly credited to the saving bank account of the assessee. The bank has also certified that all these payments have been duly reflected in the salary certificate/Form no. 12BA after

deducting of taxes. As per part (B) annexure 2 Form No. 16 total amount of perquisite received by the assessee during the relevant financial year amounting to Rs.2,25,006/- have been included in the total income. These specific evidences and supplementary salary certificate issued by the Reserve Bank of India furnished by the assessee were not controverted by the A.O. Therefore, I consider that the ld. CIT(A) is not justified in sustaining this addition. Accordingly, ground no. 1 of the appeal of the assessee is allowed.

In respect of addition of Rs.3 lac:

6. During the course of appellate proceedings before the ld. CIT(A) the assessee submitted the statement of computation of total income of the assessee's son Shri Aditya Avasare who had given a gift of Rs. 3 lac to the assessee. A copy of the challan of payment of tax of Rs.51,966/- as per revised computation by Shri Aditya Avasare was also filed. It was also explained that transaction of proceeds on maturity of mutual fund namely Axis Liquid Fund Rs.6,02,125/- and ICICI Prudential Equity Fund of Rs.6,06,073/- were reflected in the bank statement of his son which was originally omitted to be included in the return of income filed for assessment year 2016-17. However, the same was shown in the revised computation of income along with payment of taxes of Rs.51,966/-. In the remand report assessing officer has not disproved the genuineness of the total income of Rs.5,95,540/- shown by the son of the assessee on which he had also made payment of self-assessment tax of Rs.51,966/- as per revised computation. Considering the above facts and relevant supporting material the decision of ld. CIT(A) in sustaining the impugned addition is not justified, therefore, after taking into consideration the relevant supporting material as discussed above the impugned additions of Rs. 3,00,000/- is also deleted.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 12.04.2023

Sd/-
(Amarjit Singh)
Accountant Member

Place: Mumbai

Date 12.04.2023

Rohit: PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.