

**THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member

ITA No. 299/Del/2023 : Asstt. Year: 2017-18

Sharon Agarwal, 59, Espace, Nirvana Country, Sector-50, South City-2, Islampur (97), Gurgaon, Haryana-122003	Vs	Income Tax Officer, Ward-2(3), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No. ARZPA4077H		

**Assessee by : Sh. Pradeep Kumar Gupta, CA
Revenue by : Sh. Om Parkash, Sr. DR**

Date of Hearing: 16.05.2023	Date of Pronouncement: 18.05.2023
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ORDER

The present appeal has been filed by assessee against the order of National Faceless Appeal Centre (NFAC), Delhi dated 07.11.2022.

2. Following grounds have been raised by the assessee:

"1. The Ld. CIT (A) has erred to validate the Assessment Order, the Ld. Assessing Officer has selected the case in scrutiny on the basis of CASS (Computer Aided Scrutiny Selection) for limited scrutiny but has explained the notices u/s 147 of the Act which is mentioned in the body of the order at para 2 and para 4.

2. The Ld. CIT (A) has erred to state in para 4 that the Appellant has not filed detailed written submission on grounds raised while the Ld. Appellate Authority has passed an order without seeking any details or giving any opportunity to the Appellant or any noticed issued before passing such order dated 7.11.2022.

3. The Ld. CIT (A) has failed to appreciate that the Assessing Officer has not provided the reasons of either

CASS or of re-opening of the case till date and has taken the scrutiny assessment on the line of reply received u/s 147 of the Act. These details sought is yet not been made available to the Appellant.

4. The Ld. CIT (A) has failed to appreciate that the Assessing Officer has erred in passing the assessment order against the provisions of the Income Tax Act, 1961 and also without following the procedure therefore the order itself is not maintainable.

5. The Ld. CIT (A) has further erred and failed to appreciate that the query rose vide notices issued u/s 142(1) of the Act itself is beyond the scope of limited scrutiny.

6. On the facts and in the circumstances of the case and in law, the Ld. CIT (A) has erred in confirming the 50% amount of the Gift in the hand of the assessee which is gifted jointly ; to the assessee and her spouse through the Gift-Deed executed dated 14th Jan 2014 by the / mother of the Assessee, who is a retired school teacher by her profession.

7. The Ld. CIT (A) has erred to consider the factual matrix of the case that the Gift Deed executed by mother of the Assessee, who is about 70 years of Age and keeping cash with her which was easy for her to look after herself in this old age. The Ld. CIT (A) has further erred that the said amount of 13,00,000/- was gifted only when the Donor was moving to U.K. to the place of her another daughter for treatment in 2014.

8. The Ld. CIT (A) has erred to allowing the half of the content of the Gift Deed and not allowing the remaining half of the content of the same Gift Deed.

9. The Ld. CIT (A) has erred to give an entirely new finding while adjudicating the issue which is different from the erred findings of the AO in the assessment order.

10. The Ld. CIT (A) has erred to not consider the contents of the valid Gift Deed executed before the witnesses that the Donor has no right or interest in the sum gifted to her son-in- law and the married daughter.

11. The Ld. CIT (A) has erred to imagine without a sufficient basis that it is difficult to accept that the cash was lying idle with the Appellant for more than 2 years without spent for personal and house hold expenses denying the fact that the spouse of the assessee has been filing a personal ITR of more than a crore annually and is high earning individual.

12. On the facts and in the circumstances of the case and in law, Ld. CIT (A) has erred in restricting the addition by ignoring to consider that the large chunk of cash deposited pertains to the time from 18.4.2016 to 8.11.2016 which is before the demonetization therefore the imagination that various courts have given allowance for past savings and withdrawals, is not relevant in the instant case.

13. The Ld. CIT(A) has erred to allow the restricted addition of Rs. 8,78,000/- out of total cash deposited during a period of Rs. 12,78,000/- out of total gifted cash of Rs.13,00,000/-."

3. Delay condoned.

4. The Assessing Officer made addition of Rs.12,78,000/- on account of the cash deposits over a period of 14 days from 18.04.2016 to 18.11.2016 of the amounts varying from Rs.25,000/- to Rs.4,00,000/-. Before the AO, it was submitted that the amount has been received as gift from the mother (aged 70 yrs.) of the assessee and out of self accumulations. During the proceedings before the Id. CIT(A), the assessee has also submitted copy of the gift deed dated 14.01.2014. We find that the gift deed has not been disputed by the revenue. The fact of acceptance of the gift has also not been controverted by the Id. CIT(A). In the absence of any contrary material brought before us by the revenue, we hereby direct that the addition made by the Assessing Officer be deleted.

5. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 18/05/2023.

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 18/05/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR