

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

**BEFORE SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER &
MS. PADMAVATHY S, ACCOUNTANT MEMBER**

**ITA No. 791/Mum/2023
(Assessment Year: 2011-12)**

Bhagyashree Manohar Sawant, 702, 7 th Floor, Ptabuddha Samata Co-op Hsg. Society, Sant Rohidas Marg, Sion, Mumbai-400022.	बनाम/ Vs.	ITO, Ward-26(1)(2), Room.No.303, Kautilya Bhavan, BKC, Bandra(E), Mumbai-400051.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : COHPS2513D		
(अपीलार्थी /Appellant)		(प्रत्यर्थी / Respondent)

अपीलार्थी ओर से / Appellant by :	Shri Malav Sheth.AR
प्रत्यर्थी की ओर से/Respondent by :	Shri Anil Gupta.DR

सुनवाई की तारीख / Date of Hearing	22/05/2023
घोषणा की तारीख /Date of Pronouncement	23/05/2023

आदेश / ORDER

PER PAVAN KUMAR GADALE - JM:

The assessee has filed an appeal against the order of the Commissioner of Income-tax (Appeals)-National Faceless Appeal Centre, Delhi [“Ld. CIT(A)”] passed under section 250 of the Income Tax Act, 1961 (“the Act”) for the Assessment Year (“AY”) 2011-12. The assessee has raised following grounds of appeal:-

1. *“Additions of Rs.25,48,198/- confirmed without giving opportunity of being heard is bad-in-law and must be deleted.*

2. *Addition of Rs.25,48,198/- u/s.68 being bad-in-law must be deleted.*
3. *Addition of Rs. 25,48,198/- without considering the expenditure incurred in connection with the same under the head "Profits and gains from business and Profession" must be deleted.*
4. *Addition of Rs. 25,48,198/- without considering the expenditure incurred in connection with the same under the head "Income from Other Sources" must be deleted."*

2. The brief facts of the case are that, the assessee has not filed the return of income for AY 2011-12. The assessee was engaged in mountaineering summit and received sponsorship contributions from various organizations, friends and relatives in F.Y 2010-11. The Assessing Officer ("AO") has received information from the bank that the assessee during the Financial Year 2010-11 has made cash deposits aggregating to Rs.19,55,700/- in the saving bank account maintained with State Bank of India and the contract receipts of Rs.3,00,000/-. The AO has reason to believe that the income has escaped the assessment and issued notice u/s 148 of the Act. In compliance to notice, the assessee has filed the return of income for AY 2011-12 on 13.12.2018 disclosing a total income of Rs.2,960/-. Subsequently, notice u/s 143(2) and U/sec 142(1) of the Act was issued calling of the information. In compliance to the notice, Ld. Authorized Representative of the assessee ("AR") appeared and submitted the details. The AO found that in

the said FY, the assessee has disclosed the income under “income from other sources” and the assessee has not produced the evidences in respect of sources of cash deposits in the bank account to the extent of Rs.19,55,700/-. Whereas, it was explained that the assessee was engaged in mountaineering summit and has received sponsorship contributions from various organizations, friends and relatives. The AO found that the assessee has filed the submissions on 21.12.2018, mentioning that the contributions are received from friends and relatives but has not provided any confirmation letter, sponsorship letter to substantiate the cash deposits and the contributions received. Therefore, the AO was not satisfied with the explanations and made addition of(i) Rs.19,55,700/- of cash deposits (ii) Rs.5,16,498/- in respect of contribution received from close friends and relatives are not supported by the confirmations (iii) Rs. 76,000/- which was received from Municipal Corporation was not supported with sponsorship confirmation or letter. The A.O has finally assessed the total income of Rs.25,51,158/- and passed order u/s 143(3) r.w.s 147 of the Act dated 28.12.2018.

3. Aggrieved by the order of AO, the assessee has filed appeal before the Ld.CIT(A) whereas Ld.CIT(A) has considered the grounds of appeal, statement of facts and there was no reply filed to the notice issued or nor any appearance by the assessee or Ld.AR. Therefore, Ld.CIT(A) has relied on the

information on record and sustained the action of the AO and dismissed the appeal of the assessee. Aggrieved by the order of Ld.CIT(A), the assessee has filed appeal before Hon'ble Tribunal.

4. At the time of hearing, Ld.AR of the assessee submitted that Ld.CIT(A) has erred in confirming the addition made by the AO overlooking the factual information filed in the proceedings. Further, Ld.AR submitted that the assessee has a good case on merits and has filed an application for admission of additional evidences Under Rule 29 of the Income Tax Rules, 1962 and prayed for allowing the appeal. Per Contra, Ld. Sr. DR submitted that cash deposits transactions are not established with the evidences before the lower authorities and the Ld.DR supported the order of CIT(A).

5. We heard the rival submissions and perused the material on record. The sole crux of the disputed issue that the CIT(A) has erred in confirming the additions by the A.O. as the transactions are not supported with the documentary evidences and non appearance of the assessee. The Ld.AR emphasized that the assessee has submitted the details as called for by the authorities. The assessee is filling the application for admission of additional evidences under Rule 29 of ITAT rules with the sponsorship confirmation from ICICI Lombard General Insurance, Sponsorship amount confirmation from Central Bank Of India, and confirmations

of friends and relatives who have sponsored the mountaineering event, which were not available earlier and could not produce before the lower authorities. Further the evidences play important role in decision making in the adjudicating proceedings. Therefore, considering the facts, circumstances and additional evidences, we are of the opinion that the assessee should not suffer for non filing of material information, as the evidences played vital role in decision making and we admit the additional evidences. Accordingly, to meet the ends of justice, we set aside the order of the CIT(A) and restore the entire disputed issues along with the additional evidences to the file of the assessing officer to decide afresh on merits and the assessee should be provided adequate opportunity of hearing and shall cooperate in submitting the information and we allow the grounds of appeal of the assessee for statistical purposes.

6. In the result, the appeal filed by assessee is allowed for statistical purposes.

Order pronounced in the open court on 23.05.2023.

Sd/-

**(PADMAVATHY S)
ACCOUNTANT MEMBER**

Sd/-

**(PAVAN KUMAR GADALE)
JUDICIAL MEMBER**

Mumbai, Dated 23/05/2023

Amit Kumar, Sr. PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

1.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai