

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य एवं
माननीय श्री मनोमोहन दास, न्यायिक सदस्य का समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM AND
HON'BLE SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ **ITA No.711/Chny/2022**
(निर्धारण वर्ष / **Assessment Year: 2017-18**)

Smt. R.Sabeetha Rani 15, Krishnasamy Cross Street ISSA Pallavaram, Chennai-600 043.	बनाम / Vs.	ACIT Central Circle-3(1) Chennai.
स्थायी लेखा सं./जीआइ आर सं./ PAN/GIR No. ASWPS-1835-P		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri Raghav Rajeev Menon & Shri E.Jaya Sankar (Advocates)- Ld. ARs
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri R.Mohan Reddy (CIT) –Ld. DR
सुनवाई की तारीख/ Date of Hearing	:	20-06-2023
घोषणा की तारीख / Date of Pronouncement	:	23-06-2023

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2017-18 arises out of the order of learned Commissioner of Income Tax (Appeals)-18, Chennai [CIT(A)] dated 16-06-2022 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s. 153B(1)(b) r.w.s.153C of the Act on 28-12-2018. The grounds raised by the assessee are as under:

“1. The order of Learned CIT(A) dated 16.06.2022 for the Assessment year 2017-18 is contrary to the facts and circumstances of the case and is opposed to the principles of equity, justice and fair play.

2. The Learned CIT(A) erred in confirming the addition of Rs.7,00,000/- under section 69A of the Act as unexplained cash found during the course of Search.
3. The Learned CIT(A) failed to consider the explanation of the Appellant that the cash pertained to accumulated salaries of the Appellant and her spouse over the Course of the last seventeen years.
4. The Learned CIT(A) failed to consider the fact that the sister of the appellant has gifted a cash of Rs.4,00,000/- to perform the ritual purposes of the child of the appellant. It is therefore submitted that the CIT(A) has erred in making addition Under 69A of the Act even though the appellant has proved beyond the doubt about genuineness of cash in hand.
5. The Learned CIT(A) erred in confirming the addition of Rs.1,19,74,300/- under section 69A of the Act as unexplained Jewellery.
6. The Learned CIT(A) failed to appreciate the fact that the appellant has received the gold Jewellery through stridhan, gifts and through purchase from her salary and her husband salary.
7. The Learned CIT(A) failed to appreciate the fact that a portion of jewellery also belongs to mother-in-law of the appellant who has passed away in 2015 and the said Jewels are lying with the appellant.
8. The Learned CIT(A) ought not to have made an addition on adhoc basis despite the fact that the appellant has provided all the details and proved beyond the reasonable doubt.
9. The Learned CIT(A) erred in confirming the addition of Rs.1,25,00,000/- as unexplained investment u/s 69B of the Act.
10. The Learned CIT(A) failed to appreciate the fact that the loose sheets alone cannot be used as a basis of making impugned addition simply on the strength of statement recorded from a single person without any other corroborative material and evidence.
11. The Learned CIT(A) erred in law by not providing an opportunity to the appellant to cross examine Mr. Palani Kumar. In fact, it is a settled principle of administrative jurisprudence that no order shall be passed without reasonably hearing the other side.

As is evident, the assessee is aggrieved by confirmation of certain additions in the impugned order.

2. The Ld. AR, at the outset, drew attention to petition for additional evidences dated 19.06.2023 and submitted that these evidences would have material bearing on the impugned issues. Accordingly, Ld. AR sought another opportunity of hearing before lower authorities. The Ld. AR also submitted that addition of unexplained investment has been made merely on the basis of third party statement without any opportunity of cross-examination. The Ld. CIT-DR vehemently

opposed the same on the ground that no sufficient cause could be shown by the assessee which led to non-production of these documents before lower authorities. The Ld. CIT-DR also submitted that the additions have been made on the basis of admission made by the assessee. Having heard rival submissions and after perusal of case records, the appeal is disposed-off as under.

3.1 The impugned assessment stem from search action on assessee on 23.11.2016. Post search proceedings, the assessee admitted income of Rs.19.36 Lacs. The assessee is one of the directors in M/s Balu H2T Private Ltd., one of Group Company of B. Aayappan group. On the basis of documents filed by the assessee during the course of assessment proceedings as well as on the basis of seized material, Ld. AO made certain additions which are under challenge before us upon confirmation by Ld. CIT(A).

3.2 During search, cash of Rs.8.83 Lacs was found and the assessee could not explain the source of the same. The assessee admitted that cash belonged to her and the same was accumulated from undisclosed sources of income. Consequently, the same was added to the income of the assessee. During appellate proceedings, the assessee, inter-alia, submitted that part of the cash was gifted by her sister. However, in the absence of any documentary evidences, this plea was rejected.

3.2 During search, gold and diamond jewellery valued at Rs.159.65 Lacs and silver articles valued at Rs.0.43 Lacs was found. The assessee was unable to furnish any details or explanations for the same. Accordingly, the same was added as unexplained investment. Upon further appeal, Ld. CIT(A) deleted the addition of silver articles and allowed concession of 25% against gold and diamond jewellery.

3.3 During search, certain loose sheets were also found which revealed that the assessee paid certain amounts on various dates, the receipt of which was acknowledged by Shri. B. Aayappan. The assessee submitted that the amount was paid to Mr. B. Aayappan for new business and the said amount was part of total investment of Rs.125 Lacs. The assessee failed to establish the source of the investments. A sworn statement was recorded from Shri B. Aayappan and also from Shri K. Nagarajan, husband of the assessee. On the basis of admission, statements and documents, Ld. AO concluded that the investment was unexplained investment and the assessee could not furnish any explanation or documentary evidences in support of the sources of the same. The Ld. CIT(A) upheld the action of Ld. AO. Aggrieved as aforesaid, the assessee is in further appeal before us.

Our findings and Adjudication

4. From the facts, it emerges that all the three impugned additions have been made on the basis of admissions, sworn statements and seized documents. It could also be seen that the assessee could not furnish acceptable explanation or documentary evidences in support of her claim. In our considered opinion, the onus was on assessee to rebut the stand of revenue. Now, the assessee has filed additional evidences in terms of Rule 29 of Appellate Tribunal Rules, 1963. These evidences are in the shape of affidavits and invoices with respect to purchase of jewellery. These evidences, in our opinion, may support the claim of the assessee to a certain extent. Therefore, keeping in mind the principle of natural justice, we accept the plea of Ld. AR to admit the additional evidences. Accordingly, the impugned order, on all the three issues, is set-aside and the impugned additions

stand restored back to the file of Ld. AO to re-consider the additional evidences and pass fresh assessment order in the light of explanation furnished by the assessee. The assessee is directed to substantiate its claim. No other ground has been urged before us.

5. The appeal stand allowed for statistical purposes.

Order pronounced on 23rd June, 2023

Sd/-
(MANOMOHAN DAS)
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 23-06-2023
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आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त/CIT 4. विभागीय प्रतिनिधि/DR 5. गार्ड फाईल/GF