

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER
&
SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER

I.T.A. No. 250/Ko1/2023
Assessment Year: 2016-17

SOUMYASREE CHAKRABORTY HIG-A; Flat A-2/2/5 1050/2, Survey Park Calcutta Greens Phase 1 Santoshpur S.O. Kolkata - 700075 [PAN : AWFPC4917K]	Vs	INCOME TAX OFFICER, WARD- 25(4), KOLKATA
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Somnath Ghosh, Advocate
Revenue by :	Shri Kausik Kumar Das, Addl. CIT, D/R

सुनवाई की तारीख/Date of Hearing : 06/07/2023
घोषणा की तारीख /Date of Pronouncement: 28/07/2023

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

The present appeal is directed at the instance of the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter the "ld. CIT(A)") dt. 28/02/2023, passed u/s 250 of the Income Tax Act, 1961 ("the Act") for the Assessment Year 2016-17.

2. The sole issue that arises from consideration is that whether the ld. CIT(A) erred in confirming the addition of Rs.3,61,000/- on account of deposit of cash u/s 69A of the Act.

3. Facts in brief are that the assessee is an individual and income of Rs.2,47,640/- declared in the return filed for Assessment Year 2016-17 on 14/06/2016. Case selected for scrutiny through CASS followed by issuance of notice under section 143(2) and 142(1) of the Act. During

the course of assessment proceedings the assessing officer noticed that the assessee has made a cash deposit of Rs.3,61,000/- in the bank account held with HDFC Bank, Santoshpur Branch. The assessee was asked to explain the source. It was submitted that the source of the said sum is gift from relative which is not taxable under section 56 of the Act. The Id. Assessing Officer was not satisfied and he made addition under section 69 of the Act at Rs.3,61,000/- and assessed the income at Rs.6,08,640/-. Aggrieved the assessee preferred appeal before the Id. CIT(A) challenging the said addition, however, the Id. CIT(A) on the ground that the assessee had failed to produce any supporting materials this regard, confirmed the addition made by the assessing officer.

4. Aggrieved, the assessee is now in appeal before this Tribunal.
5. The Id. Counsel for the assessee, submitted that the alleged sum of Rs.3,61,000/- was received as gift from her father, mother and brother. It is also submitted that the father of the assessee is a retired High Court Judge and had sufficient source of income to explain the said gift. It was also submitted that the brother of the assessee is a NRI settled in U.S.A. and had sufficient source to give the gifts. Prayer was made to delete the said addition.
6. The Id. D/R, on the other hand, vehemently argued supporting the orders of both the lower authorities and also submitted that the

assessee has not provided copy of the gift deed and other details regarding mode of transfer.

7. We have heard rival contentions and perused the material placed before us. We notice that the assessee is regularly assessed to tax and has been offering taxable income. Assessee has claimed to have received gift in cash at Rs.3,61,000/- from relatives as defined u/s 56(2)(vi) of the Act. It is claimed that the assessee received gift from father, mother and brother. It is also submitted that father of the assessee is a retired High Court Judge, namely, Justice Subhro Kamal Mukherjee, having PAN No. AEPPM7875Q and files income tax returns regularly. The brother of the assessee is a Non-Resident Indian settled in U.S.A. and is not assessed to tax in India. Mother of the assessee is not an income tax assessee and she is a housewife. Considering the fact that undisputedly the gifts have been received from relatives as defined under section 56(2)(vi) of the Act, no dispute has been raised to the fact that father and brother of the assessee have sufficient source of income. Though, the assessee has not file any documentary evidence in the shape of gift deed, however, the details of the relatives were very much placed before the Id. Assessing Officer and if he was not satisfied he might have issued notice under the Act for seeking the necessary information. In the impugned order, the assessee stated that copies of the income tax return of her father for

Assessment Year 2016-17 was placed before the Id. Assessing Officer requesting him to consider the genuineness of the gift.

8. Under these given facts and circumstances and considering the fact that the donors either have sufficient source of income or they are senior citizens who have some past accumulated savings and, therefore, considering the same, we find that the genuineness of the said gift is proved and thus inclined to hold in favour of the assessee. We the set-aside the finding of the Id. CIT(A) and delete the addition of Rs.3,61,000/- made u/s 69 of the Act. Accordingly all the effective grounds raised by the assessee stand allowed.

9. In the result appeal of the assessee is allowed.

Order pronounced in the Court on 28th July, 2023 at Kolkata.

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 28/07/2023

SC Sarpa

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

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Kolkata