

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "SMC" Bench, Mumbai.

Before Shri B.R. Baskaran (AM) & Shri Sandeep Singh Karhail (JM)

I.T.A. No. 1268/Mum/2023 (A.Y. 2017-18)

Smt. Manisha Navin Mor Flat No. B-903, Neelkanth Heights, Plot No. 12 & 13 Sector-8, Ghansoli Navi Mumbai-400 701. PAN : BTDPM7482H (Appellant)	Vs.	ITO, Ward 28(2)(2) Room No. 311 3 rd Floor, Tower No. 6, Vashi Railway Station Commercial Complex, Vashi Navi Mumbai-703. (Respondent)
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Assessee by	Shri Mandar Vaidya
Department by	Shri Prashant Barate
Date of Hearing	10.08.2023
Date of Pronouncement	14.08.2023

O R D E R

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 9.2.2023 passed by the learned CIT(A), National Faceless Appeal Centre, Delhi and it relates to A.Y. 2017-18. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the addition of Rs. 12,90,000/- relating to cash deposits made into the bank account of the assessee.

2. The facts relating to the issue are stated in brief. The assessee filed her return of income for the year under consideration declaring a total income of Rs. 3,74,370/-. The same was taken up for scrutiny. It was noticed that the assessee has purchased a house property for a sum of Rs. 95 lakhs alongwith her husband. The Assessing Officer asked the assessee to explain the source of the above said purchase. It appears that the Assessing Officer was satisfied with the sources of deposits explained by the assessee except on a loan amount of Rs.1,47,000/-. In the appeal filed by the assessee, the

ld CIT(A) restored this issue to the file of AO for examining certain details. The assessee was satisfied with the direction so given by Ld CIT(A) and hence did not agitate the same before us.

3. The Assessing Officer also noticed that the assessee has deposited cash aggregating to Rs.12,90,500/- in her bank account. With regard to the same, the assessee explained that it represents cash savings made from out of her past years' income and it was deposited into the bank account for making payments to the builder. The Assessing Officer noticed that the aggregate amount of income declared by the assessee in the immediately preceding three years was Rs. 9,48,866/-. He took the view that the same cannot be given credit, since the assessee has declared cash balance as "nil" as on 31.3.2015 in the return of income filed for A.Y. 2015-16. Accordingly the Assessing Officer assessed the entire cash deposits of Rs. 12,90,000/- as income of the assessee and also levied tax thereon under section 115BBE of the Act. The learned CIT(A) confirmed the same and hence the assessee has filed this appeal before us.

4. We have heard the parties and perused the record. The assessee has filed a copy of return filed for the year relevant to A.Y. 2017-18. The Balance sheet is placed at page no. 11 of the paper book. We noticed that the purchase of flat is reflected in the Balance sheet as part of fixed asset. The bank account is also reflected in the balance sheet. The cash in hand as on 31.3.2017 is shown at Rs. 63,303/-. The assessee has furnished a copy of "cash book" from 1.4.2016 to 31.3.2017 at page No. 20 to 22 of the paper book. The cash balance as on 31.3.2017 is shown at Rs. 63,303/- and it tallies with the Balance sheet.

5. In the above said Cash book, the assessee has shown opening cash balance as on 1.4.2016 at Rs. 9,17,839/-. We noticed that the assessee has filed copies of return of income filed for the year relevant to A.Y. 2016-17 at

page No. 81 to 84 of the paper book. In the Balance sheet as on 31.3.2016, the cash and bank balance is declared as Rs.3,21,399/-. If we deduct the bank balance of Rs. 16,451/-, the cash balance that was available with the assessee as on 31.3.2016 was Rs.3,04,948/-. We noticed earlier that the assessee has prepared cash book by taking cash balance as on 1.4.2016 as Rs. 9,70,839/-. Thus, there is a difference of Rs. 6,65,891/- in the cash balance shown in the cash book as on 1.4.2016. If the correct cash balance is taken, then there will be negative cash balance available in the cash book. The Ld A.R, however, could not explain this difference immediately.

6. The Learned AR, however, tried to explain that the gross business receipts declared by the assessee in the profit and loss account was Rs.12,98,595/- and the same matches with the bank deposits of Rs.12,90,000/-. Accordingly, he tried to explain that the sources of the deposits would stand explained. However, we are of the view that the above said argument is liable to be rejected if one peruses the Cash book and Bank Statement. We notice that the assessee has shown only net business income every month in the Cash book and the deposits have been made into the bank account out of the cash balance available in the cash book. i.e. it is not the case that the assessee has the gross business receipts in the cash book and accounted for all business expenses therein.

7. If the Cash balance of Rs.9,17,839/- as on 1.4.2016 shown in the Cash book, by any chance, is correct one, then all the cash deposits would stand explained. However, the tax authorities have not identified this difference and hence there was no occasion for the assessee to offer any explanation about the difference. Accordingly, in the interest of natural justice, we are of the view that the assessee may be provided with one more opportunity to explain the above said difference in the opening cash balance as on 1.4.2016. The necessity of making any addition has to be decided afresh on the basis of explanations given by the assessee. Accordingly, we are of the view that this

issue requires fresh examination at the end of the Assessing Officer. Accordingly, we set aside the order passed by the learned CIT(A) on this issue and restore the same to the file of the Assessing Officer for examining it afresh in the light of discussions made supra. The assessee is also directed to furnish all the information and explanations that may be called for by the Assessing Officer. After examining them and after providing adequate opportunity of being heard, the Assessing Officer may take appropriate decision in accordance with the law.

8. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 14.8.2023.

Sd/-
(Sandeep Singh Karhail)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Mumbai.; Dated : 14/08/2023

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

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