

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA No. 123/Bang/2023</b>
<b>Assessment Year : 2018-19</b>

Smt. Bindu Satish Chandra, Apartment No. 9, Mantri Altius, Cubbon Road, Bengaluru – 560 001. <b>PAN: AEQPC8552H</b>	<b>Vs.</b>	The Deputy Commissioner of Income Tax, Central Circle – 1(1), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri Vinay Simha, CA
Revenue by	:	Shri V. Parthivel, Addl. CIT (DR)

Date of Hearing	:	10-08-2023
Date of Pronouncement	:	29-08-2023

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal is filed by assessee against order dated 09.02.2023 passed by the Ld.CIT(A)-11, Bangalore for A.Y. 2018-19 on following grounds of appeal:

*“1. The orders of the authorities below in so far as they are against the appellant are opposed to law, equity, weight of evidence probabilities, facts and circumstances of the appellant's case.*

*2. The learned CIT(A) is not correct in sustaining the addition of Rs.5 lakhs on account of cash found during the search where in the appellant has provided clarification during the course of search as well as during the assessment proceedings.*

3. *The learned CIT(A) failed to take into account the fact that the assessing officer has made the addition without understanding the details provided by the appellant in response to the show cause notices issued.*

4. *The learned CIT(A) has failed to take into account the fact that the appellant has provided the complete details of identity and credit worthiness of the donors during the course of assessment proceedings.*

5. *The learned CIT(A) has sustained the addition only on suspicion and without any material in hand.*

6. *The learned CIT(A) has failed to take into account the income declared by the appellant in the earlier years and also the economical and social status of the appellant.*

7. *The learned CIT(A) is not correct in sustaining the addition under Section 69A of the Income Tax Act, 1961 where the appellant has discharged the onus of providing the details of the cash found during the search proceedings.*

8. *The learned CIT(A) has failed to take into fact that the appellant has clearly furnished the bifurcation of cash gift on various occasions and the same is not disputed by the assessing officer.*

9. *The learned CIT(A) has failed to take into account the fact that the appellant has been consistently stating that the cash found to the extent of Rs.5 lakhs during the course of search is out of the gift received from mother and her husband.*

10. *The learned CIT(A) has failed to understand the fact that assessing officer has drawn wrong inference in the assessment order that the appellant has not drawn any from the bank to substantiate the fact of cash found. The appellant has never claimed in any of the proceedings that the cash found is on account of cash withdrawn from the bank.*

11. *The learned CIT(A) has failed to take into the fact that assessing officer has made the addition without any material in hand except for mere suspicion and for the sake of making the addition.*

*12. It is submitted that the provisions of section 115BBE of the Act, have no application, in as much as, there is no income liable for assessment as unexplained money u/s.69A of the Act, as demonstrated above. Consequently, the tax determined u/s.115BBE of the Act, requires to be vacated.*

*13. Without prejudice to the right to seek waiver with the Hon'ble CCIT/DG, the appellant denies herself liable to be charged to interest u/s. 234-A, 234-B and 234C of the Act, which under the facts and in the circumstances of the appellant's case and the levy deserves to be cancelled.*

*14. For the above and other grounds that may be urged at the time of hearing of the appeal, your appellant humbly prays that the appeal may be allowed and Justice rendered and the appellant may be awarded costs in prosecuting the appeal and also order for the refund of the institution fees as part of the costs.”*

## **2. Brief facts of the case are as under:**

2.1 Assessee is an individual and derives her income form salary being the Director of M/s. Global Tech Park Pvt. Ltd. For the year under consideration, she filed her return of income on 31.08.2018 declaring an amount of Rs.48,04,510/-.

2.2 During the year, a search was conducted in the residential premises of assessee's father on 01.02.2018. As a consequence there was also search in the premises of assessee on the same date. During the search conducted at the residential premises of assessee, a sum of Rs. 5 Lakhs in cash was seized. Accordingly assessee was examined u/s. 132(4) of the act and was called upon to explain the source of the cash found.

2.3 In response, the assessee submitted that the cash found was out of the withdrawal from the salary and amount received from her husband was for household maintenance and includes cash gifts received on various family occasions that placed in the past. This statement was recorded at the time of search that took place

at assessee's premises. The assessee was also asked to submit the list of people who have gifted cash. The Ld.AO noted that the assessee was unable to give the detailed list, Ld.AO opined that assessee has not explained the genuineness of the claim and has also not explained why the cash gifts were kept at the safe custody for such long time.

2.4. The Ld.AO also noted that assessee did not give any withdrawals from the bank accounts to prove the source of cash and therefore the amount of Rs. 5 Lakhs was added in the hands of the assessee as unexplained money u/s. 69A of the act.

Aggrieved by the order of the Ld.AO, assessee filed appeal before the Ld.CIT(A).

2.5 The Ld.CIT(A) after considering the submissions of the assessee, observed as under:

*“9.0 I have heard the AR of the appellant and considered the written submissions filed. It is seen that the appellant has submitted the same explanation with regard to source of cash found during search proceedings as submitted during the assessment proceedings. During the appellate proceedings, appellant has not furnished any documentary evidence or supporting documents to prove the source of cash found. Any claim of the appellant, must be supported by the documentary evidence or supportive document. In absence of the same, the claim of the appellant could not be considered. Thus, the appellant neither during the course of assessment proceedings nor during the course of appellate proceedings, could furnish any documentary evidence to substantiate his claim. Therefore, it is proved that the cash found and seized during search proceedings came from unknown sources of income. Hence, the addition made by the AO towards unexplained money is upheld. No interference in the assessment order is called for since no infirmity arose. As such, ground of appeal no. 2 & 3, as raised by the appellant is dismissed.”*

Aggrieved by the order of the Ld.CIT(A), assessee is in appeal before this Tribunal.

3. The Ld.AR submitted that assessee has been regularly filing her returns, in the past and has been reporting substantial income from salaries and other sources for every year. He filed the details of the income declared by assessee since 2012-13 till assessment year 2017-18 as under:

[1] Assessment year 2012-13	Rs. 38,46,810/-
[2] Assessment year 2013-14	Rs. 38,36,470/-
[3] Assessment year 2014-15	Rs. 38,36,470/-
[4] Assessment year 2015-16	Rs. 29,49,070/-
[5] Assessment year 2016-17	Rs. 20,05,000/-
[6] Assessment year 2017-18	Rs. 30,04,510/-
Total	Rs. 1,94,78,330/-

3.1. It is further submitted by the Ld.AR that during the assessment proceedings, assessee had produced the break up of the gifts being received from various family members being parents and spouse to support the cash withdrawals and the statement made u/s. 132(4). It is also submitted by the Ld.AR that the details regarding the gifts received filed by the assessee has not been denied or found to be false by the revenue authorities, however it has been rejected without being considered.

3.2. It is submitted by the Ld.AR that considering the substantial income that has been declared by the assessee in the preceding six assessment years, an amount of Rs. 5 Lakhs cash found at the residence of the assessee cannot be considered to be erroneous. He thus prayed for the deletion of addition being made in the hands of the assessee.

3.3. On the contrary, the Ld.DR relied on the orders passed by the authorities below.

We have perused the submissions advanced by both sides in the light of records placed before us.

4. Admittedly, the assessee comes from an affluent business family and over a period of preceding six assessment years, assessee has declared income amounting to Rs. 1.94 crores approximately. It is also an admitted position that assessee has furnished breakup of gifts received from her parents and spouse that constituted cash found and seized at the time of search. These details have not been verified further by the Ld.AO however the same has been disbelieved and held to be erroneous without any basis.

4.1. It is also noted that the Ld.AO has not looked into the returns of income filed by the assessee and the wealth tax returns that has been called for during the assessment proceeding wherein assessee has declared wealth that includes jewellery amounting to Rs. 3.54 crores approximately. The details of the gifts received by assessee is placed at page 21 of the paper book which is scanned and reproduced as under:

<b>Bindu S Chandra</b>				
<b>Statement of Cash received as Gift from Blood Relative</b>				
<b>Date</b>	<b>Received From</b>	<b>Relationship with the Assessee</b>	<b>Occassion</b>	<b>Amount</b>
6-Jul-14	S Susheela	Mother	Son Ruthuveer's Birthday	35,000
13-Oct-14	S Susheela	Mother	Own Birthday	1,00,000
13-Oct-14	Rakesh	Spouse	Own Birthday	10,000
5-Mar-15	S Susheela	Mother	Son Rathang's Birthday	30,000
6-Jul-15	S Susheela	Mother	Son Ruthuveer's Birthday	30,000
13-Oct-15	S Susheela	Mother	Own Birthday	1,00,000
13-Oct-15	Rakesh	Spouse	Own Birthday	10,000
5-Mar-16	S Susheela	Mother	Son Rathang's Birthday	30,000
6-Jul-16	S Susheela	Mother	Son Ruthuveer's Birthday	30,000
13-Oct-16	S Susheela	Mother	Own Birthday	1,00,000
13-Oct-16	Rakesh	Spouse	Own Birthday	10,000
5-Mar-17	S Susheela	Mother	Son Rathang's Birthday	30,000
6-Jul-17	S Susheela	Mother	Son Ruthuveer's Birthday	30,000
				<b>5,45,000</b>

4.2. Without cross examining above donors, the Ld.AO rejected the submissions of the assessee based on surmises and conjectures. We also noted that the assessee has furnished the

return of income of her mother and spouse who has gifted her money and it is noted that they are credit worthy people who would have gifted such amounts to the assessee. Considering the family status of assessee and the income tax returns filed by assessee in the preceding assessment years along with the returns of income produced of her mother and spouse, the money received as gift cannot be doubted, unless there is corroborative material that have been brought on record by the Ld.AO.

4.3. In the present facts of the case, revenue does not even have iota of evidence to prove the submissions of the assessee to be false. We are therefore of the opinion that the explanation offered by the assessee deserves to be accepted as the genuineness and credit worthiness of the donors have been established by the assessee. Thus, the addition made of Rs. 5 Lakhs found as cash from the premises of the assessee deserves to be deleted.

**Accordingly, the grounds raised by the assessee stands allowed.**

**In the result, the appeal filed by the assessee stands allowed.**

Order pronounced in the open court on 29<sup>th</sup> August, 2023.

Sd/-  
(CHANDRA POOJARI)  
Accountant Member

Sd/-  
(BEENA PILLAI)  
Judicial Member

Bangalore,  
Dated, the 29<sup>th</sup> August, 2023.  
/MS /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore