

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री मंजुनाथ जी, लेखासदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष
BEFORE SHRI MANJUNATHA G, ACCOUNTANT MEMBER AND
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ ITA No.598 /Chny/2020
निर्धारण वर्ष /Assessment Year: 2015-16

Helan Mary Soba,
"No 22/12-43
Saveriyar Koil Street"
Kooni Bazaar, Trichy-620001
[PAN: AGKPH-8251Q]

The Income Tax Officer,
Vs. Ward-1(2),
Tiruchirapalli.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri N. Arjun Raj, C.A.
: Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing

: 28.08.2023

घोषणा की तारीख /Date of Pronouncement

: 13.09.2023

आदेश / ORDER

PER MANOMOHAN DAS, J.M:

This appeal by the assessee is directed against the order passed by the Learned Commissioner of Income Tax (Appeals)-1, Trichy [CIT(A)] dated 09-03-2020 and pertains to Assessment Year [AY] 2015-16.

2. The assessee has raised the following grounds of appeal:

"1. The Commissioner of Income Tax (Appeals) is not justified in sustaining the addition made by the Assessing Officer in the circumstances of the case.

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2. *The Commissioner of Income Tax (Appeals) ought to have appreciated that the appellant has been just the name holder and the bank account has been operated by her husband which was also accepted by the Assessing Officer.*

3. *My husband, Mr. Shankar was promoted as manager in Lakshmi Vilas Bank Ltd, Shevapet Branch, Salem and he was fixed a target for fixed deposits. He has mobilized funds from few existing customers of the bank, friends and relatives.*

4. *The Commissioner of Income Tax (Appeals) ought to have appreciated when it is claimed that the assessee could not possibly have any source of income, the addition on her hand is not justified within the parameters of the Income Tax Act.*

5. *The Commissioner of Income Tax (Appeals) erred in relying merely on the cash deposited in the appellant's bank account rather than considering the truth about the source of the deposit which was made by her husband and also the statement given by him.*

6. *The Commissioner of Income Tax (Appeals) was not right in appreciating the husband's statement given at the time of assessment regarding the rightful owner of the money deposited in her bank account.*

7. *The learned Commissioner of Income Tax (Appeals) has erred in concluding the claim that the deposits were advanced by known customers into the account of the spouse of the bank manager sounds unbelievable.*

8. *The learned Commissioner of Income Tax failed to consider that if the Assessee has failed to explain the entries in bank account, then the additions made by the Authorities under the Act on the basis of Peak Credit can be adopted to remove the cascading effect of the unexplained credit entries in the bank account 2019 (5) 2019 (5) TM 1 129 - MADRAS HIGH COURT Principal Commissioner of Income Tax, Chennai Vs. Shri A. Anbukkannan.*

9. *The Peak Credit was Rs.9,76,447/- on 15.07.2014 which may be considered as addition for the Assessment Year 2015-2016."*

3. The facts of the case are that the assessee is an individual and filed her return of income for the assessment year 2015-16 admitting a total income of Rs. 2,25,000/-. The case was selected for limited scrutiny under CASS noticing large cash deposits in savings bank

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account of the assessee. Consequently, a notice under section 143(2) of the Income Tax Act, 1961 [hereinafter "the Act"] dated 22-06-2017 was issued and served upon the assessee. The assessee, her husband Sri Shankar and authorized representative Shri A. Srinivasan, C.A. appeared. The assessee submitted before the Learned Assessing Officer [AO] that the bank account wherein cash deposits of Rs. 87,59,057/- were made was in her name but the account was actually operated by her husband. The assessee vide written submission dated 22-11-2017 submitted that whatever statements made or documents produced by her husband for the purpose of assessment of her income would bind her. As the assessee claimed ignorance about the cash deposits in her account, summon was issued to her to appear with all relevant details in support of the cash deposits in her SB account. The assessee appeared before the Ld. A.O, but could not furnish any evidence or details regarding the cash deposits. In fact, a statement was recorded u/s 131 of the Act from the assessee, wherein it was explained by the assessee that return of income was filed for getting a loan for construction or purchasing of a house. It was also explained by the assessee that her husband only knows about her bank account as he operated the same. As the assessee submitted that whatever reply would file by her husband that would be binding on her, the Ld. A.O issued summon to the husband

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of the assessee and he appeared. A statement u/s 131 of the Act was recorded from the husband of the assessee. He was asked whether he knows about the pendency of scrutiny assessment regarding his wife's case, whether he was aware of the fact that cash deposit of Rs.87,59,057/- in the bank account of his wife during the financial year 2014-15. The reply of the husband of the assessee was in affirmative. It was explained by him that he was working in the Lakshmi Vilas Bank branch at Sevapet. He was promoted and posted as Manager in the newly opened branch at Mecheri. The husband of the assessee claimed that he borrowed funds from the known customers of the bank and deposited that borrowed fund in his wife's account in order to meet the targets of the Bank. It was also claimed by him that, after the end of the month the said borrowed funds were withdrawn and returned back to the said customers of the bank in cash. The Ld. AO sought details/evidence of such customers from the husband of the assessee. The husband of the assessee replied that he is not having any evidences regarding borrowing and depositing that fund in his wife's account. The husband of the assessee, however, replied that funds totaling Rs. 23,00,000/- were withdrawn and returned back to the customers who given the funds. Rest of the funds transferred to the accounts as directed by the customers including for opening of fixed deposits. As the husband of the assessee failed to furnish evidence,

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the Ld. A.O asked him to clarify why the cash deposit amount should not be treated as the income of his wife. The husband of the assessee to that query replied that he had told the truth but unable to furnish details or evidence in support of his claim. The Ld. A.O did not accept the claim of the husband of the assessee and added the cash deposit amount of Rs. 87,59,057/- to the total income of the assessee noticing failure to furnish evidence by the husband of the assessee. The Ld. A.O treated the added amount of Rs.87,59,057/- amount as unexplained investment of the assessee.

4. Being aggrieved, the assessee filed 1st appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 09-03-2020 has confirmed the addition made by the Ld. AO.

5. Dissatisfied, the assessee filed the present appeal before the Tribunal.

6. Heard the representatives of both the parties and perused the materials available on record. The Ld. AR reiterated the explanation as was submitted before the Ld. CIT(A). Further the Ld. AR relied on the following decisions in support of his case :

1. *Principal Commissioner of Income Tax v. Shri Anbukkannan in Tax Case (Appeal) Nos. 216 and 217 of 2019, Madras High Court.*

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2. *Mr. D Srivasan v. DCIT, Corporate Circle-1, Coimbatore in ITA No. 822/MDS/2015-ITAT Chennai.*

7. Per contra, the Ld. DR submitted that the assessee failed to prove his case. No evidence in support of the claim was furnished before the lower authorities. Thus, the Ld. DR is in support of the order of the lower authorities.

8. We have carefully considered the submissions of the parties and materials available on record. The assessee before the Ld. CIT(A) furnished written submissions, copy of bank account and a list of names of persons mentioning their PAN Nos and amount of cash deposited in Fixed deposits in their names by the assessee's husband. The Ld. CIT(A) sought a report from the Ld. AO on the claim of the assessee. The Ld. AO, accordingly, submitted his report. The Ld. CIT(A) considered the remand report of the Ld. AO and observed as under:

"In the remand report, the Assessing Officer has stated that he could not evidence any such papers to prove that the sums withdrawn were paid back to the customer in cash or converted as fixed deposits. It is further stated by the Assessing Officer that except some cases, most of the time, the amount was deposited by cash on first of the month and made self-withdrawal at the end of the month and that these claims are not backed by evidence to prove that these withdrawals have actually been returned back to the depositors. The Assessing Officer further opines that except for confirmation letters, the depositors have not produced proof for their identity, capacity and credit worthiness etc., and the details of the bank accounts of the cash depositors from whom the amounts were credited to the assessee's account is also not furnished. In addition to this, the Assessing Officer has mentioned that the creditors in the lists are stated to be doing low income daily wages like coolie, tailors,

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agricultural labourers, daily wage earners from handlooms and power-looms-commission agents. In total, the Assessing Officer has inferred that the cash deposit has been made out of own money and therefore the addition made is correct.”

9. The Ld. CIT(A) sought comments of the assessee on the aforesaid remand report of the Ld. AO. The assessee filed a reply. The Ld. CIT(A) after consideration of the reply of the assessee observed that the assessee brought forward a new factual content and has not controverted the remand report by any documentary evidence. The Ld. CIT(A) finally came to the conclusion that the claim of the assessee that deposits were advanced by known customers unbelievable and afterthought.

10. After discussing the entire case as aforesaid, we observe that the assessee has failed to prove her claim. We observe that the assessee failed to produce the persons who deposited cash into her bank account. No evidence regarding the loan given to the husband of the assessee by the known customers of the bank so as to achieve the target of the bank were furnished by the husband of the assessee. The identity of such persons, their capacity to give loan, their sources of income etc. were not proved by the husband of the assessee before the lower authorities. The confirmation letters were also not furnished by the persons by whom cash deposit were made in the account of the assessee. The claim of the assessee remained as a bald claim only

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followed by no evidence. Why the depositors will deposit their funds in an account of other person for increasing the deposits of a bank. The depositors can make deposit in their names by themselves. There is no necessity to increase the bank deposit by depositing funds in other's bank account. If the depositor deposits funds in his account, then also, deposit of a bank will increase. Therefore, the claim of the assessee is totally unbelievable. The Ld. CIT(A) rightly observed that the claim of the assessee is her afterthought. Accordingly, we find no force in the argument of the Ld. AR. The order passed by the Ld. CIT(A) needs no interference.

11. In the result, the appeal of the assessee is dismissed.

Order pronounced on 13th September, 2023.

Sd/-
(मंजुनाथ. जी)
(Manjunatha. G)
लेखा सदस्य /Accountant Member

Sd/-
(मनोमोहन दास)
(Manomohan Das)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 13th September, 2023.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

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