

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER

**ITA No.1950/Mum/2023
(A.Y. 2011-12)**

Sheetal Prasad Gawandi Omkar Co-Op Housing Society, Flat No. 601, Building No. 22, Nehru Nagar, Kurla (E) Mumbai – 400024	Vs.	ITO-27(3)(3) Tower No. 6, Vashi Railway Station Commercial Complex, Vashi, Navi Mumbai – 400 703
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AHGPR8476C		
Appellant	..	Respondent

Appellant by :	Ravikant Pathak
Respondent by :	Prakash Kishinchandani

Date of Hearing	04.09.2023
Date of Pronouncement	27.09.2023

आदेश / ORDER

Per Amarjit Singh (AM):

This appeal filed by the assessee is directed against the order passed by the Id. CIT(A) NFAC, dated 31.03.2023 for A.Y. 2011-12. The assessee has raised the following grounds before us:

- “1. The Commissioner of Income Tax (Appeals), National faceless Appeal Centre, Delhi [hereinafter referred as CIT(A)] erred in confirming the action of the AO in issuing notice u/s 148 of the Income Tax Act, 1961 (Act) and passing the order u/s 143(3) r.w.s 147 of the Act.

The Appellant submits that there is no income chargeable to tax which has escaped the assessment, therefore, the notice issued u/s 148 of the Act and order passed u/s 143(3) r.w.s. 147 of the Act shall be quashed.

2. *The CIT(A) erred in confirming the action of the AO in making the addition of Rs. 5,00,000/- by invoking section 69 of Act.*

The Appellant submits that section 69 of the Act has no application in the present case; hence, the addition made by the AO and confirmed by the CIT(A) shall be deleted.

The Appellant craves leave to add, amend and modify above grounds of appeal.”

2. The fact in brief is that a notice u/s 148 of the Act was issued in the case of the assessee on 27.03.2018. The notice u/s 148 was issued on the ground that assessee had acquired bonds/debentures worth Rs.5 lac, however, no return of income was filed. During the course of assessment proceedings assessee has not made compliance to the notice issued by the assessing officer, therefore, amount of Rs.5 lac invested for acquiring bonds/debentures was treated as undisclosed investment u/s 69 of the Act.
3. Aggrieved, the assessee filed the appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee.
4. During the course of assessment proceedings before me the ld. Counsel submitted that return of income was not filed by the assessee because assessee was salaried person and was not having income above the taxable limit. Further, the ld. Counsel submitted that investment in the SBI Bond was made by the employer of the assessee i.e ECL Finance Ltd. The ld. Counsel also referred ECL funding statement and ECL confirmation letter and also contended that the SBI bond was redeemed on 25.03.2011 and amount was recovered by the ECL after providing credit of interest amount of Rs.15,819/- to the assessee earned on the said debentures.

On the other hand, the ld. D.R supported the order of lower authorities.

5. Heard both the sides and perused the material on record. The assessee has not filed any return of income for the assessment year under consideration since she was not having income above the taxable limit for the years under consideration. The assessing officer reopened the assessment on the basis of information available in i-taxnet notice that assessee had made investment in the SBI Bonds to the amount of Rs.5 lac during the year under consideration. During the course of reassessment proceeding assessee could not make compliance as she has not received the notices of hearing issued by the assessing officer as the premises on which the notices were issued was under redevelopment. Subsequently, the assessee has furnished the relevant detail and supporting evidences before the Id. CIT(A) that she had not made any investment and her employer had directly made investment in SBI bonds on behalf of the assessee and the bonds were redeemed during the year under consideration and assessee was only given credit of interest earned on the bonds to the amount of Rs.15,819/-. The assessee further explained with relevant supporting evidences i.e. form 16 issued by the employer and confirmation letter issued by the employers as placed in the paper book that her total income was not exceeding Rs.1,90,000/- which was below the taxable limit, therefore, no return of income was filed. Looking to the above facts and relevant supporting document placed on record I consider the addition of Rs.5 lac made in the case of the assessee is not justified. Therefore, the AO is directed to delete the impugned addition as the investment in the SBI bond was made by the employer of the assessee and the assessee was only given the credit of interest earned on the bonds on redemption and total taxable income of the assessee was below the taxable limit. Accordingly, ground no. 2 of the assessee is

allowed. The ground no. 1 is not pressed therefore same stand dismissed.

6. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 27.09.2023

Sd/-

(Amarjit Singh)
Accountant Member

Place: Mumbai
Date 27.09.2023
Rohit: PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.