

आयकर अपीलिय अधिकरण, 'ए' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI**

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष
**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER AND
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **928/Chny/2023**

निर्धारण वर्ष / Assessment Year: 2012-13

Senniappan Muthulakshmi
36, Chidambaram Colony,
Erode – 638 001.

Income Tax Officer,
v. Ward 2(4),
Erode.

[PAN: ADRPM-8065-B]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: S. Sundararaman, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. AR V Sreenivasan, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 17.10.2023

घोषणा की तारीख/Date of Pronouncement

: 17.10.2023

आदेश /ORDER

PER MANJUNATHA. G, ACCOUNTANT MEMBER:

This appeal filed by the assessee is directed against the order passed by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 25.07.2023 and pertains to assessment year 2012-13.

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

"1. The CIT(A) erred in not considering the written submissions of the appellant in in proper perspective including the fact that the appellant is a retired **headmistress (in a government aided school)**

2. The CIT(A) erred in upholding the addition made by the A.O of cash deposits of Rs. 3,00,000 /- without appreciating the explanations offered by the appellant regarding the source for the same, predominantly the affidavit **confirming the gift from husband for Rs. 4,50,000 /**

3. The CIT(A) grossly erred in rejecting the gift affidavit dated 15-10-2019 stating that the affidavit was submitted after the date of issuance of 143(2) notice, which has no relevance. The CIT(A) erred in upholding the act of the **A.O. rejecting the affidavit on flimsy reasons.**

And for the other reasons that may be adduced at the time of hearing, the appellant prays that this appeal be admitted, considered and justice rendered."

3. The brief facts of the case are that, the appellant had not filed her return of income for the assessment year 2012-13. From the information available on record, it was seen that the assessee during the financial year 2011-12, relevant to assessment year 2012-13, had made cash deposit of Rs. 24,00,000/- into her savings bank account with M/s. Canara Bank Ltd, Perundurai Road, Erode. The assessment has been reopened u/s. 147 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") for the reasons recorded, as per which income chargeable to tax has been escaped assessment and hence, notice u/s. 148 of the Act, dated 14.03.2019 was issued. The assessee has filed her return of income in response to notice u/s. 148 of the Act on 10.05.2019, admitting total income of Rs. 2,49,750/-. During the course of

assessment proceedings, the Assessing Officer noticed that the assessee has made cash deposits of Rs. 24,00,000/- in her savings bank account with M/s. Canara Bank Ltd. The Assessing Officer, called upon the assessee to explain source. In response, the assessee submitted that the source for major cash deposit is out of withdrawal from very same bank account in earlier occasions. The Assessing Officer, after considering relevant submissions and also taken note of total cash deposit has made addition of Rs. 3,00,000/- towards cash deposit as unexplained income.

5. Being aggrieved by the assessment order, the assessee preferred an appeal before the Id. CIT(A). Before the Id. CIT(A), the assessee has filed a gift deed along with affidavit from Shri. S. Viswanathan, and argued that she had received gift of Rs. 4,50,000/- from her husband and the source for cash deposit is gift received from her husband. The Id. CIT(A), after considering relevant submissions of the assessee rejected arguments and sustained addition made by the Assessing Officer towards cash deposit, on the ground that, the so called gift deed and affidavit filed by the appellant is just an afterthought and thus, sustained addition made towards cash

deposit. Aggrieved by the Id. CIT(A) order, the assessee is in appeal before us.

6. The Ld. Counsel for the assessee, submitted that the Id. CIT(A) erred in sustaining addition made towards cash deposit ignoring the evidences filed by the assessee, including gift deed and affidavit from her husband. Therefore, he submitted that addition made by the Assessing Officer should be deleted.

7. The Id. Sr. AR, Shri. AR V Sreenivasan, Addl. CIT, supporting the order of the Id. CIT(A) submitted that, the assessee could not file any evidence for balance cash deposit during assessment proceedings. Although, the appellant has filed gift deed from her husband, but said gift deed and affidavit has been filed during the appellate proceedings, that to, without any other evidences. Therefore, the Id. CIT(A) has rightly confirmed addition made by the Assessing Officer and their order should be upheld.

8. We have heard both the parties, perused the material available on record and gone through orders of the authorities below. The Assessing Officer made addition towards cash

deposit of Rs. 3,00,000/- into assessee's savings bank account, on the ground that the assessee could not explain source for balance cash deposit. It was the argument of the assessee before the lower authorities that, she had received a sum of Rs. 4,50,000/- from her husband and to support her stand, she had filed gift deed and affidavit from her husband. The Id. CIT(A), rejected affidavit filed by the assessee, on the ground that averments of the appellant is an afterthought. Except this, the Id. CIT(A) has not given any cogent reasons for rejecting the evidences filed by the assessee. At the same time, the assessee also could not justify purported gift deed with other evidences, including source of her husband. From the above, it is very clear that neither the Assessing Officer, nor the appellant has proved their case. Under these facts, the only option left with us is to estimate income of the appellant for source towards cash deposits into bank account. Therefore, considering facts and circumstances of the case and also evidences filed by the assessee, we direct the Assessing Officer to make addition towards source for cash deposit to the extent of Rs. 1,50,000/- only. In other words, the appellant gets relief to the extent of Rs. 1,50,000/- and the balance

amount of Rs. 1,50,000/- towards source for cash deposit is sustained.

9. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the court on 17th October, 2023 at Chennai.

Sd/-
(वी दुर्गा राव)
(V. DURGA RAO)
न्यायिकसदस्य/**Judicial Member**

Sd/-
(मंजुनाथ. जी)
(MANJUNATHA. G)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 17th October, 2023

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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