

आयकर अपीलीय अधिकरण, कोलकाता पीठ “एसएमसी”, कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH: KOLKATA
श्री राजेश कुमार, लेखा सदस्य एवं श्री संजय शर्मा न्यायिक सदस्य के समक्ष
[Before Shri Rajesh Kumar, Accountant Member & Shri Sonjoy Sarma, Judicial Member]

I.T.A. No. 1063/Kol/2023
Assessment Year: 2017-18

Amrita Choudhury (PAN: AQYPC 1133 A)	Vs.	ITO, Ward-2(4), Raiganj
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	07.12.2023
Date of Pronouncement/ आदेश उद्घोषणा की तिथि	05.01.2024
For the Appellant/ निर्धारिती की ओर से	Shri S. K. Tulsiyan, Advocate
For the Respondent/ राजस्व की ओर से	Shri B. K. Singh, JCIT(Sr. D.R)

ORDER / आदेश

Per Rajesh Kumar, AM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-NFAC, Delhi (hereinafter referred to as the Ld. CIT(A)”) dated 11.08.2023 for the AY 2017-18.

2. The only issue raised by the assessee in the various grounds of appeal is against the confirmation of addition of Rs. 17,48,000/- by Ld. CIT(A) as made by the AO on account of cash deposits during demonetization period u/s 69A of the Act.

3. Facts in brief are that the assessee filed return of income on 18.07.2018 showing total income of Rs. 6,00,140/- . The case of the assessee was selected for limited scrutiny for the reason that the assessee has deposited cash during demonetization period between 9.11.2016 to 31.12.2016. The AO, upon perusal of the assessment records, observed that the assessee has deposited Rs. 17,48,000/- during demonetization period from 09.11.2016 to 31.12.2016 in bank account no. 20037922785 with State Bank of India, Raiganj Branch. The assessee is deriving income from salary and other sources. The assessee furnished before the AO certain documents in support of cash deposits however according to AO these were not relevant/sufficient papers/documents and held that assessee has failed to prove the sources of cash deposits. Thereafter the AO issued show cause notice to the assessee on 20.11.2019 as to show cause as to why the deposit of Rs. 17,48,000/- during demonetization period should not be treated as unexplained cash credit and added to the income of the assessee. Finally the said income was added to the income of the assessee in the assessment framed u/s 143(3) vide order dated 5.12.2019.

3. The Ld. CIT(A) affirmed the order of AO on the same reasoning as given by the AO in the assessment framed.

4. After hearing the rival contentions and perusing the material on record, we find that the assessee is located in far-flung area of Raiganj, Uttar Dinajpur, West Bengal. The assessee's marriage took place on 10.03.2016 and a copy of Invitation Card was placed at 26-28 of PB. We note that the assessee received a marriage gift from Smt. Bani Choudhury, Mother, Shri Sachi Nandan Choudhury, Father and Shri Nirmal Kr. Sarkar, Grand Father of Rs. 5,00,000/- each thereby receiving Rs. 15,00,000/- on the account of marriage out of love and affection. The assessee has also filed necessary gift deed from page 4 to 6 of PB executed by the donors and duly signed by the donee along with copy of ITR, balance sheet, acknowledgment of receipt of gift. Besides the assessee has filed ITR, copy of account and computation of income of Shri Sachi Nandan Choudhury which are attached at page 7 to 10 of PB and also ITR, copy of account and computation of income of Smt. Bani Choudhury at page 11 to 14 of PB.

We observe that the amount gifted by father and mother were duly disclosed by the father as well as the mother in their capital accounts as withdrawals. We also note that the assessee's parents have sufficient sources to gift the amount. We note that the father of the assessee, Shri Sachi Nandan Choudhury had shown the net profit of Rs. 8,03,745/- in the year ended on 31.03.2016 which has duly assessed to tax as per the computation of income filed at page 10 of PB and similarly the mother has shown in her net profit of Rs. 6, 20,426/- for the year ended on 31.03.2016 and has sufficient sources to gift the amount. In the case of Grand Father, we note that the donor has died and affirmation could not be filed.

5. As it is apparent from the ITR filed by the assessee and the evidences furnished before us in the form of ITRs, computations of income, balance sheets, profit and loss accounts explaining the creditworthiness of the donors and the gift given on the occasion of marriage of the assessee out of natural love and affection. We also note that during AY 2016-17, the assessee has opening cash balance of Rs. 9,21,457/- as on 01.04.2015 and during the year total receipt and total utilization of Rs. 15,30,039/- and Rs. 5,23,773/- respectively meaning thereby that resultant cash on 31.03.2016 was Rs. 19,27,723/- the copy of cash book / ledger is attached at page 1 to 3 of PB. Considering the facts of the case in the light of evidences and documents as filed before us, we can reasonably believe that the assessee has sufficient sources of cash which was deposited into bank during demonetization period. We note that the assessee got married on 10.03.2016 and immediately after marriage she left her parental house in Raiganj to stay with her in-laws. Money was kept only with parents and the same was deposited into the bank by the parents of the assessee. So far as the gift of grand parent is concerned we are quite convinced that the family has financial worth to gift on the occasion of the grand daughter as the documents could not be furnished as the grand parent has since expired. We have also perused and considered written submission filed by the DR on 7.12.2023 after conclusion of hearing despite there being no direction to that effect and also the reply of the assessee dated 11.12.2023 thereto while arriving at the above conclusion. In view of the above

facts and circumstances, we are inclined to set aside the order of CIT(A) and direct the AO to delete the addition.

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

Order is pronounced in the open court on 5th January, 2024

Sd/-

Sd/-

(Sonjoy Sarma /संजय शर्मा)
Judicial Member/न्यायिक सदस्य

(Rajesh Kumar/राजेश कुमार)
Accountant Member/लेखा सदस्य

Dated: 5th January, 2024

SM, Sr. PS

Copy of the order forwarded to:

1. Appellant- Amrita Choudhury, Nil, Raiganj, Uttar Dinajpur, West Bengal, 733134.
2. Respondent – ITO, Ward-2(4), Raiganj
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. Pr. CIT- , Kolkata
5. DR, Kolkata Benches, Kolkata (sent through e-mail)

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata