

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

**BEFORE CHANDRA POOJARI, ACCOUNTANT MEMBER AND
SHRI NARENDRA KUMAR CHODHRY, JUDICIAL MEMBER**

ITA No.1103/Bang/2023
Assessment Year : 2018-19

Smt. Lata Kaman, E2803, Bapunagar Harijanwada, Gulbarga – 585 102, Karnataka. PAN : AHNPL 2584 L	Vs.	ITO, Ward – 1 and TPS, Kalaburgi, Karnataka.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Sreehari Kutsa, Advocate
Revenue by	:	Shri. Ganesh R Ghale, Advocate – Standing Counsel for Revenue.

Date of hearing	:	12.02.2024
Date of Pronouncement	:	12.02.2024

ORDER

Per Bench :

This appeal at the instance of the assessee is directed against NFAC’s order dated 03.11.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2018-19.

2. Grievance of the assessee in this appeal is with regard to addition of Rs.20 lakhs made by AO as unexplained cash credit. The AO got information regarding cash deposit in savings bank account during the FY 2017-18 relevant to AY 2018-19. The description of information is regarding time deposits in ICICI bank amounting to Rs.1,26,00,000/- and purchase of ICICI Prudential Mutual Fund amounting to Rs.1,27,48,060/-. The assessee has not filed her return of income for the AY 2018-19. Therefore, the AO issued notice u/s.148 of the Act. The AO

issued notices u/s.142(1) on various dates calling for details and in response the assessee filed certain details. The AO not satisfied with the information filed by the assessee invoked provisions of Section 144 of the Act and completed the assessment by making addition of Rs.1,27,48,060/- as unexplained as per provisions of Section 69A of the Act and taxed u/s.115BBE of the Act. It is seen from the computation sheet that the income from other sources was computed at Rs.2,54,96,120/-. It is also noticed from the ITBA portal that an order u/s.154 of the Act was passed subsequently on 15.05.2023 rectifying the mistake. The mistake which was apparent from record was rectified and the addition of Rs.2,54,96,120/- was reduced to Rs.1,27,48,060/-.

3. Against this, assessee carried on appeal before the NFAC/CIT(A). There is no proper representation before the NFAC by the assessee. Before NFAC, assessee filed the details showing the amount of Rs.20 lakhs which was made as fixed deposit by assessee is originally received from her husband on 21.06.2017 and same was renewed and redeposited on regular intervals. As such making addition every time of renewal as unexplained income of the assessee is not proper. The NFAC/CIT(A) agreed with the contention of the assessee, however sustained the addition of Rs.20 lakhs received from her husband as unexplained income in the hands of the assessee. Now the contention of the learned AR is that out of Rs.1,27,48,060/-, the CIT(A) is not justified in sustaining Rs.20 lakhs as unexplained income of the assessee, as the amount was received by the assessee from her husband Shi. Narendranath Kaman whose details of PAN, income tax returns were duly filed before the authorities and addition of Rs.20 lakhs is to be deleted.

4. On the other hand, learned DR strongly relied on the order of the lower authorities and submitted that CIT(A) is very reasonable in deleting the substantial

addition out of Rs.1,07,48,060/- and only Rs.20 lakhs that is sustained by the NFAC/CIT(A) is to be confirmed by this Tribunal.

5. We have heard the rival submissions and perused the material on record. In this appeal, assessee's contention is that assessee originally received Rs.20 lakhs from her husband whose identity as well as capacity to lend that amount to the assessee has been proved. Further, this amount has been received through the banking channel and its genuineness cannot be doubted. In our opinion, assessee has to fulfill all the ingredients of section 68 of the Act i.e., the identity and capacity of parties and genuineness of transaction. If the assessee is not able to provide a satisfactory explanation of the nature and source of the credit, it is open to the lower authorities to hold that it is unexplained credit and to be treated accordingly. Assessee has to produce documents relating to identity and genuineness of transaction and creditworthiness of the lender, then the lower authority is duty bound to conduct independent enquiry and verify the same. However, in the present case, the lower authority has not made any independent enquiry of these ingredients though AO has pointed out the discrepancies in the documents furnished by the assessee before him. As seen from the facts of the case, the lower authorities concerned has to examine the evidence furnished by the assessee by conducting independent enquiry and thereafter to state whether he is satisfied with the details of the evidence produced by the assessee by conducting enquiry. Hence, in the interest of justice, we remit the issue in dispute i.e., only the amount sustained by the CIT(A) to the file of the AO to carryout independent enquiry on this issue and decide accordingly.

6. In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(NARENDRA KUMAR CHOUDHRY)
Judicial Member

Sd/-

(CHANDRA POOJARI)
Accountant Member

Bangalore.

Dated: 12.02.2024.

/NS/*

Copy to:

1. Appellants
2. Respondent
3. DRP
4. CIT
5. CIT(A)
6. DR, ITAT, Bangalore.
7. Guard file

By order

Assistant Registrar,
ITAT, Bangalore.