

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE "SMC" BENCH : PUNE

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.1235/PUN./2023
Assessment Year 2013-2014

Smt. Jyotsna Nandkumar Menkar, 19-Market Yard, Satara – 415 002 Maharashtra. PAN ABRPM6426C	vs.	The Income Tax Officer, Ward-2, Aayakar Bhavan, Manjunath Manor, Pawai Naka, Satara – 415 001. Maharashtra.
(Appellant)		(Respondent)

For Assessee :	Shri Vikrant Pansare
For Revenue :	Shri Basavaraj Hiremath

Date of Hearing :	05.03.2024
Date of Pronouncement :	05.03.2024

ORDER

PER SATBEER SINGH GODARA, J.M. :

This assessee's appeal for assessment year 2013-14, arises against the National Faceless Appeal Centre [in short the "NFAC"] Delhi's Din and Order No. ITBA/NFAC/S/250/2023-24/1056506160(1), dated 25.09.2023, involving proceedings u/s.143(3) of the Income Tax Act, 1961 (in short "the Act").

Heard both the parties. Case file perused.

2. Coming to the assessee's sole substantive grievance that both the learned lower authorities have erred in law and on facts in framing the impugned re-assessment thereby making sec.69A addition of Rs.30 lakhs representing cash deposits in her bank account; both the parties invited my attention to the CIT(A)'s detailed discussion affirming the Assessing Officer's action to this effect as under :

5.2 I have duly considered the findings of AO in his assessment order and reply of the Appellant filed during appellate proceedings. From the perusal of the assessment order it is seen that AO has passed order u/s 144 r.w.s. 147 making an addition of Rs.30 lacs on account of cash deposit in the bank account of the Appellant as unexplained cash credit u/s 69A of the IT Act, 1961. It is seen that AO has reopened the case on the basis of credible information received from DIT(I&CI), Pune that an amount of Rs.30 lacs has been deposited in the saving bank account maintained with the Wai Urban Cooperative Bank Ltd., Branch Krishna Nagar, Satara. The Appellant had not filed the return of income during the year. After taking due approval from the PCIT-3, Pune, notice u/s 148 was issued to the Appellant. From the perusal of the assessment order it is seen that AO has provided ample opportunities to the Appellant and seeking explanation with regard to source of cash deposit in her bank account. Further, AO has also obtained information from the bank u/s 133(6) of the IT Act, 1961 during the assessment proceedings. The Appellant has explained that the source of cash in her bank account is out of gift received from her age old parents. In support of her explanation the Appellant has produced the copies of a will dated 19.06.2012 executed by Shri Vasant Shankar V wherein he has gifted total Rs.60,000/- to his daughters to be distributed amount 4 members of the family equally. Further, it is seen that one more will was made by Smt. Hemlata V. Veer wherein she has gifted total of Rs.40 lacs to her daughters to be distributed amount 4 members of family equally. In nutshell, the Appellant has explained that the source of cash deposit in her bank account is out of gift received from her old parents. The AO has noted that after due examination of the gift that this gift is basically a will executed by the father of the appellant on 19.06.2012. As per content of the will, after his death the money would be handed over to her wife Smt. Hemlata V. Veer and in turn she will hand over money to Manekar Family after his death. Further, AO has noted that as per will money was to be handed over after the death of Shri Vasant S. Veer the father of the Appellant. The AO has also given his findings that just after 10-15 days of the execution of the will the cash has been deposited in the bank account of the appellant. The AO has not accepted the fact that money deposited in the bank account are received from Shri Vasant Veer and Smt. Hemlata Veer under a will. The AO has further noted that there was no probate order and there was no executor appointed for the deployment of cash. In the light of above findings the AO did not accept the explanation offered by the Appellant with regard to cash deposit of Rs.30 lacs in the Appellant's bank account and has accordingly treated this cash deposit as unexplained cash credit and treated this amount deemed income of the appellant u/s 69A of the IT Act, 1961 for the year under consideration.

5.3 On the careful examination and evaluation of the findings of the AO and reply of the Appellant, I am inclined to concur with the findings of the AO. It is seen that Appellant has tried to explain the source of cash deposit in the bank account as

received out of gift by her parents. The explanation and evidence with regard to source of cash deposit given by Appellant are not convincing and concrete. It is beyond human probability that such huge cash has been kept by her parents at home. The will through which gift has been explained is also not proper and not due process has been followed with regard to execution of the will. Therefore, in my considered opinion the appellant has failed to satisfactorily explained the source of cash deposit amounting the Rs.30 lacs in her bank accounts. Hence, I hereby confirm the addition of Rs.30 lacs made by AO u/s 69A of the IT Act, 1961 as deemed income of the Appellant for the year under consideration. In view of the above discussion, therefore, these grounds of appeal are **dismissed**.

3. I have given my thoughtful consideration to the vehement rival stands against and in support of the impugned addition. I find that neither party's submissions deserves to be accepted in entirety. This is for the precise reason that the assessee on the one hand has although claimed to have inherited the impugned cash deposits by way of gifts coming from "Will" of her old aged parents; neither she has been able to explain the source of their income i.e., testator(s)' savings *per se* nor both the lower authorities have been able to prove anything adverse against her as they have simply brushed-aside the detailed evidenc(es) submitted in the course of re-assessment. Faced with the situation, it is deemed appropriate in the larger interest of justice that a lump sum addition of Rs.12 lakhs out of unexplained sum of Rs.30 lakhs only deserves to be upheld with a rider that the same shall not be treated as a precedent. The assessee gets relief of Rs.18 lakhs in otherwords. Ordered accordingly.

4. This assessee's appeal is partly allowed in above terms.

Order pronounced in the open Court on 05.03.2024.

Sd/-
[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Pune, Dated 05th March, 2024

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr. CIT, Pune concerned
4.	D.R. ITAT, "SMC" Bench, Pune.
5.	Guard File.

//By Order//

//True Copy //

Sr. Private Secretary, ITAT, Pune Benches,
Pune.