

**THE INCOME TAX APPELLATE TRIBUNAL,
'A' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Rajesh Kumar, Accountant Member**

**I.T.A. No. 178/KOL/2024
Assessment Year: 2012-2013**

Shalini Gupta,.....Appellant
245B, A.P.C. Road,
Manicktala, Kolkata-700006
[PAN:AHQPJ8419D]

-Vs.-

Income Tax Officer,.....Respondent
Ward-22(4), Kolkata,
169, A.J.C. Bose Road,
Kolkata-700014

Appearances by:

Shri G. Banerjee, A.R., appeared on behalf of the assessee

Shri B.K. Singh, JCIT, Sr. D.R. appeared on behalf of the Revenue

Date of concluding the hearing : April 10, 2024

Date of pronouncing the order : May 01, 2024

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The present appeal is directed at the instance of assessee against the order of ld. Addl./JCIT(Appeals)-5, Mumbai dated 11th December, 2023 passed for assessment year 2012-13.

2. The assessee has taken four grounds of appeal. However, her grievances revolve around two issues, namely –

- (a) the ld. Addl./JCIT(Appeals)-5, Mumbai has erred in upholding the reopening of assessment under section 147/148 of the Income Tax Act;
- (b) the ld. Addl./JCIT(Appeals)-5, Mumbai has erred in confirming the addition of Rs.15,74,199/-, which has been assessed by the ld. Assessing Officer as income from other source.

3. Brief facts of the case are that the assessee has filed her return of income electronically on 19.11.2012 declaring total income of Rs.1,99,180/-. This return was processed under section 143(1) of the Income Tax Act on 23.03.2013. It emerges out from the record that the assessee was earlier assessed to tax with ITO, Ward-1(2), Ujjain, M.P. The jurisdiction over the assessee has been transferred to ITO, Ward-22(4), Kolkata w.e.f. 12th March, 2019, which was duly communicated to the assessee on 18th March, 2019. It emerges out from the record that ITO, Ward-1(2), Ujjain was examining the closing balance for A.Y. 2011-12. However, he did not make any addition, but the ld. Assessing Officer in A.Y. 2012-13 recorded the reasons for reopening of the assessment. The ld. Assessing Officer has observed that it came to the notice of revenue that assessee had deposited cash amounting to Rs.36,50,000/- in her Savings Bank account. The ld. Assessing

Officer further observed that from the submissions made by the assessee before the Department, it was seen that cash amounting to Rs.20,15,801/- was received by the assessee as a gift in her marriage during Financial Year 2010-11, which required verification as no details has been provided by the assessee in this regard. Thus ld. Assessing Officer has reopened the assessment. The assessee raised objection on this reopening. Such objection has been decided by the ld. Assessing Officer. The ld. Assessing Officer has passed the re-assessment order under section 143(3) read with section 147 on 19.12.2019. He made an addition of Rs.15,74,199/-. Such addition was made on the ground that there is mismatch between the cash book/cash flow statement for the F.Y. 2010-11 relevant to A.Y. 2011-12.

4. Appeal to the ld. Addl./JCIT(Appeals)-5, Mumbai did not bring any relief to the assessee.

5. Before us, ld. Counsel for the assessee raised two-fold of submissions. In his first-fold, he submitted that if cash balance of A.Y. 2011-12 was required to be verified then assessment year 2011-12 ought to have been reopened, how the closing balance shown in A.Y. 2011-12 is to be verified in A.Y. 2012-13. The ld. Counsel for the assessee took us the brief reasons reproduced in the order of ld. Addl./JCIT(Appeals)-5, Mumbai on page 5. In his second fold of submission, he submitted that assessee has submitted a detailed cash flow statement. He drew our attention from the submissions made before the ld. Addl./JCIT(Appeals)-5, Mumbai, which reads as under:-

Total Salary drawn (as per form 16 and ITR submitted to I.T department) enclosed as a proof to clear your mind.

<u>Total Salary drawn for the :</u>		Rs.
1. Year Ending	31.03.2007 -	1,56,098.00
2. Year Ending	31.03.2008 -	4,38,787.00
3. Year Ending	31.03.2009 -	6,73,681.00
4. Year Ending	31.03.2010 -	8,11,212.00
<i>Total:</i>		<i>Rs.20,79,778.00</i>
<i>Less : deductions, withdrawals and drawings etc. for above years totaling</i>		<i>Rs. 6,23,934.00</i>
<i>Now Closing capital of the assessee was for the year ended 31.03.2010</i>		<i>Rs.14,55,844.00</i>

The said Rs.14,55,844.00 closing capital of year ending 31.03.2010 (2009-10) became the opening capital in the Balance sheet of the assessee for the yr. ending 2010- 11(2010-11) corresponding to Asst, year 2011-12.

Therefore, the closing cash in hand for the Assessment Year.2011-12 (Financial year ending 31.03.2011) Rs 32,17,099.17 in which included Rs.14,55,844 as opening capital which stand fully explained beyond any doubt.

Thus, the opening capital of scrutiny year Asst, year 12-13 stands fully disclosed and explained.

6. With the assistance of ld. Representatives, we have gone through the record carefully. The assessee is a Chartered Accountant by Profession. According to her, she had earned salary in the past, which has accumulated to her. She received gifts on the occasion of her marriage and thus the total capital available at the end of A.Y. 2011-12. She has a closing balance of Rs.32,17,099/-. This closing balance was duly disclosed by her, which was examined by ITO, Ward-1(2), Ujjain and no addition was

made. This closing balance became the opening balance in this year. We find from perusal of these details that the assessee has been consistently filing her return. She has been disclosing her affairs. She has disclosed the closing balance in the Capital Account at Rs.32,17,099/-, which was not disturbed by the Department at the end of A.Y. 2011-12. A perusal of the reasons for reopening would indicate that even ld. Assessing Officer has noticed this fact that during Financial Year 2010-11, the assessee got married. She has shown capital balance, closing balance, which were meant for A.Y. 2011-12. He wants to verify the closing balance in A.Y. 2012-13. If the closing balance was shown for A.Y. 2011-12, then, it should have been examined in A.Y. 2011-12. Once the declared closing balance attained finality at the end of A.Y. 2011-12, then it cannot be tinkered with in the next assessment year i.e. in the present A.Y. 2012-13 since balance has to be accepted by the Department as the opening balance. The ld. Assessing Officer has no jurisdiction to re-examine the opening balance. If this be permitted, then, it gives rise to discrepancy. In order to buttress this aspect, the assessee has made reference to the letter issued by ITO, Ward-1(2), Ujjain, who has verified the closing balance for A.Y. 2011-12, i.e. F.Y. 2010-11, but no due credence was given by the ld. Addl./JCIT(Appeals)-5, Mumbai to such submissions.

7. After evaluating the whole material available before us, we are satisfied that at the end of F.Y. 2010-11, i.e. for A.Y. 2011-12, the assessee has sufficient cash balance, which became the opening cash balance for A.Y. 2012-13. Therefore, it is to be

construed that the assessee has explained the source of the deposits and no addition deserves to be made.

8. As far as the reopening of the assessment is concerned, we find that ld. Assessing Officer wants to verify the closing balance in this succeeding year, i.e. in the year where it has been shown as an opening balance. If the closing balance was subject to some verification in A.Y. 2011-12, then its opening balance cannot be examined. Therefore, ld. Assessing Officer was not justified to reopen the assessment merely for the reason that closing balance cannot be verified being time barred by six years. Therefore, its opening balance is to be verified. We allow this fold of submission also and quash the re-assessment order.

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

Order pronounced in the open Court on 01/05/2024.

Sd/-	Sd/-
(Rajesh Kumar)	(Rajpal Yadav)
Accountant Member	Vice-President (KZ)
<i>Kolkata, the 1st day of May, 2024</i>	

*Copies to : (1) Shalini Gupta,
245B, A.P.C. Road,
Manicktala, Kolkata-700006*

*(2) Income Tax Officer,
Ward-22(4), Kolkata,
169, A.J.C. Bose Road, Kolkata-700014*

(3) Addl./JCIT(A)-5, Mumbai;

(4) CIT- , Kolkata

(5) The Departmental Representative;

(6) Guard File
TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.