

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ, 'ए', अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
" A " BENCH, AHMEDABAD

BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
SHRI MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

ITA No. 629/Ahd/2023  
Assessment Year : 2020-21

Bhumika Mahesh Parwani, Sadhu Vaswani Mansion, Mirghawad, Ahmedabad-380002 Gujarat	Vs	Income Tax Officer Ward 1(3)(1), Ahmedabad
PAN: ALJPP2059A		

अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Sakar Sharma, AR
Revenue by :	Ms. Neeju Gupta, Sr.DR

सुनवाई की तारीख/Date of Hearing : 13/05/2024  
घोषणा की तारीख /Date of Pronouncement: 29/05/2024

आदेश/ORDER

PER MAKARAND V. MAHADEOKAR, ACCOUNTANT MEMBER

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals) - National Faceless Appeal Centre(NFAC) [hereinafter referred as "CIT(A)"], dated 01.08.2023, for the Assessment Year 2020-21, wherein the CIT(A) confirmed the addition made by the Assessing Officer (hereinafter referred as "AO") as per the order passed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred as "the Act").

2. Assessee has filed an appeal with following grounds of appeal:

1. *The Ld. NFAC-CIT(A) erred on facts and in law in not adjudicating the validity of assessment made by the Assessing Officer on the issues other than the issues for which notice u/s 143(2) was issued under CASS for limited scrutiny.*
2. *The Ld. NFAC-CIT(A) erred on facts and in law in not appreciating that family settlement/arrangements are not transfer and, therefore, gift of land made by the aunt of the appellant's husband to appellant under family settlement arrangement cannot be subjected to provisions of section 56(2)(x) of the Act*
3. *The Ld. NFAC-CIT(A) erred on facts and in law in upholding the action of Assessing Officer making addition of Rs. 1,13,74,500/- under section 56(2)(x) of the Act without disputing rebutting the contention of the appellant that gift received was under family settlement/arrangement and without appreciating the explanations and submissions made before the Assessing Officer as well as in the course of appellate proceedings.*

**The brief facts of the case are as follows:**

3. The assessee filed her return of income on 12.2.2021 declaring total income of Rs.23,80,612. The case was selected for the scrutiny under CASS on the issue of investment in immovable property. As stated by the assessee, she received an immovable property under a family arrangement. The Assessing Officer, during the assessment proceedings under section 143(3) of the Act, added the stamp duty value of the said property to the assessee's income under section 56(2)(x) of the Act stating that the property is not received from the relative as defined and that the gift deed does not specify that it is a family arrangement.
4. The assessee contended that the family arrangement is not a "transfer" within the meaning of section 56(2)(x) of the Act and should not be subject to tax.

4.1. The CIT(A) confirmed the addition made by the AO upholding the view taken by the AO.

**Ground no. 1**

5. Ground No.1 is challenging the validity of the assessment made by AO on the issues other than the issues for which notice u/s 143(2) was issued under CASS for limited scrutiny. The counsel for the assessee stated that the notice u/s 143(2) was issued to verify the investment in immovable property but the notice u/s 1422(1) sought details of purchase of immovable property.

5.1 Ld. DR represented that the notice was issued on the basis of information received from SRO which equated gift with purchase and hence the notice was issued for limited purpose of verification of purchase of immovable property. The AO has restricted the scope of assessment to the property under question and has not extended it to another gift received by the assessee.

6. Considering the facts put forward by Ld. DR we dismiss the first ground of the assessee.

**Ground no. 2 and 3**

7. The Counsel for the assessee stated that the immovable property under question is gifted in accordance with the arrangement amongst families of Bhoraj Parwani, Shyamlal Parwani and Bhagwandas Parwani. The property, the part of which was gifted by Anita Bhojraj Parwani to the

assessee, was owned by Anita Bhojraj Parwani and the same was part of family arrangement. Anita Bhojraj Parwani is Aunt of husband of the assessee.

7.1. He further stated that family arrangement is a recognized mode of settlement among family members to maintain peace and harmony within the family, and such arrangements should not be considered as transfers that attract tax under section 56(2)(x) of the Act. Various judicial precedents were cited, including decisions from apex court, to support this contention.

8. To support the plea of family settlement the counsel for the assessee stated that some lands held by the family were agricultural lands and since all parties to settlement are not holding a status of agriculturist, non-agricultural land was used for family settlement and bring equality. He further stated that post settlement by way of gifts, the share of families is kept equal.

9. To support the claim of family settlement the assessee submitted an application of additional evidence by way of affidavits of parties to family settlement.

10. Ld. DR, on the other hand, supported the orders of the AO and CIT(A) and argued that the provisions of section 56(2)(x) are clear and unambiguous, and any receipt of property without adequate consideration should be taxed as income. She also objected to admission of additional evidence. In the interest of justice such additional evidence is admitted.

11. We have heard the rival submissions, perused the material on record, and duly considered the judicial precedents cited. The primary issue before us is whether the receipt of immovable property under a family arrangement falls within the purview of section 56(2)(x) of the Act.

12. Upon careful consideration, we find that family arrangements are made to resolve potential disputes and maintain family harmony. Such arrangements are often made out of love and affection among family members and are not in the nature of transfers for consideration. Various courts have held that family arrangements are not 'transfers' in the conventional sense and should not be subjected to tax under section 56(2)(x) of the Act.

13. It is also noted that the gift is received not only by the assessee, but some part of the same land is also gifted to two more relatives through the same gift deed.

14. Family arrangement merely represents the modus operandi for working out the rights in the common property of various members of the family. Gift deed is a legal document that transfers the ownership of the immovable property. Therefore, in our opinion, it can be used to settle the family disputes.

15. In present case, the transfer by way of gift is a part of family settlement through which individual shares were determined out of the property which they were already owning. It is not a case that the property was received from a third party where the assessee was having no interest at all.

16. We have noted the contents of affidavits filed by husband of the assessee, Shri Mahesh Bhagwandas Parwani, stating that the gift was made by his aunt as per his request as a part of family settlement. We have also noted the contents of other affidavits filed by the parties to family settlement confirming the fact that the gift was a part of family settlement. The details of gift made by Bhojraj Parwani Group to the families of other two brothers as a part of family arrangement to arrive at equality also supports the plea of the assessee that the property is received under family settlement.

17. Hon'ble Supreme Court in *Kale & others Vs. Deputy Director of Consolidation, 1976 AIR 807* has explained the concept of family arrangements and their legal validity. The court held that a family arrangement can be even oral, and registration is necessary only if the terms are reduced into writing. The object of a family arrangement is to protect the family from long drawn litigation or perpetual strife which mars the unity and the solidarity of the family. The court also held that the family arrangement must be bona fide so as to resolve family disputes.

18. In case of *Krishna Bihari Lal V. Gulabchand, 1971 AIR 1041, SCR 27* (Supreme Court of India), it was held that the word 'family' has a wider meaning. It cannot be confined to a group of persons who by law has the right of succession. In a matter of family arrangement, the word 'family' is to be seen in a much wider sense.

19. In the case at hand, the CIT(A) failed to appreciate the nature and purpose of the family arrangement and the judicial precedents supporting the assessee's claim. He has relied on the order passed by the AO and

concluded that the immovable property received by the assessee as a gift is not from a relative within the meaning of section 56(2)(x) of the Act.

20. In light of the above, we hold that the addition made by the AO and confirmed by the CIT(A) under section 56(2)(x) of the Act is not sustainable. The immovable property received by the assessee under the family arrangement is not liable to be taxed as income under section 56(2)(x) of the Act.

21. Accordingly, we set aside the order of the CIT(A) and direct the AO to delete the addition made under section 56(2)(x) of the Act.

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

**Order pronounced in the Open Court on 29 May, 2024 at Ahmedabad.**

**Sd/-**  
**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER** *True Copy*  
Ahmedabad, Dated 29/05/2024

**Sd/-**  
**(MAKARAND V.MAHADEOKAR)**  
**ACCOUNTANT MEMBER**

Rajesh

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)- (NFAC), Delhi
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,राजकोट/DR,ITAT, Ahmedabad,
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad