

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C", MUMBAI

BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER AND  
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER

ITA 1233/Mum/2024  
(Assessment year: 2012-13)

<b>Indira Suresh Agrawal</b> 3003, Vasant Marvel Grandeur CHSL, Vasant Marvel Complex Off W.E. Highway, Borivali East Maharashtra – 400 066 <b>PAN : ADOPA8784A</b>	<b>vs</b>	<b>Jurisdiction Ward 42(1)(2), Mumbai</b> Kautilya Bhavan, Mumbai AO Type W, AO Number 92, Range Code 431 Maharashtra-400 051
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by : Shri Anil Sathe  
Respondent by : Shri H.M. Bhatt (SR. DR.)  
Date of hearing : 12/06/2024  
Date of pronouncement : 18/ 06/2024

**ORDER**

**PER ANIKESH BANERJEE, J.M:**

Instant appeal of the assessee is preferred against the order of the Ld. National Faceless Appeal Centre, Delhi [for brevity, 'Ld.CIT(A)'] passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), for Assessment Year 2012-13, date of order 22.12.2023. The impugned order was emanated from the order of the Ld. Income-tax Officer, Ward 34(1)(2), Mumbai (in short, 'the A.O.')

passed under section 143(3)r.w.s. 147 of the Act, date of order 30/12/2019.

2. The assessee has taken the following grounds of appeal:-

*“1. The learned CIT(A) erred in not giving an opportunity to the appellant for providing explanation as to why the ground related to addition made by the learned AO of Rs.12,45,000/- as unexplained expenditure on the maintenance of Appellant's daughter and grandson though no such expenditure was incurred by her was not preferred by the appellant at the time of filing appeal as well as in the form of additional ground at the time of submissions although submission related to the ground was duly filed.*

*2. The learned CIT(A) erred in not considering that the ground which remained to be preferred related to the unexplained expenditure although based on identical issues with respect to AY 2013-14, AY 2014-15, AY 2015-16, AY 2016-17 & AY 2017-18', is based on the similar facts which has been allowed by the CIT(A) himself with respect to the unexplained expenditure on the maintenance of Appellant's daughter and grandson which was added by the learned AO.*

*3. The learned CIT(A) erred in not allowing the relief basis the order of the learned AO who passed the order relying solely on the certain misinterpreted statements in the matrimonial averments by the Appellant's daughter Aarti Agrawal, although she had fully explained the said statements and the background thereof before the AO, included a sum of Rs. 12,45,000/- as unexplained expenditure on the maintenance of Appellant's daughter and grandson though no such expenditure was incurred by her.*

*4. The appellant previously to add alter or amend any of the grounds of appeal prior to or at the time of hearing.”*

3. The brief fact of the case is that the reopening was made under section 148 on the basis of the Tax Evasion Petition (TEP) by the relative of the assessee. The assessee is going through a family matrimonial problem. After this petition, the assessment was completed under section 147 / 143(3) and that addition amount of Rs.6,30,000/- on account of “Income from house property”, a sum of Rs.29,88,000/- as maintenance expenses of her daughter and grandson, a sum of Rs..33,89,579/- for furnishing of the flat at Grandeur Towers, a sum of

Rs.4,94,000/- on account of unexplained cash credit. Aggrieved assessee filed an appeal before the Ld.CIT(A). The Ld.CIT(A) passed an ex parte order and partly allowed the appeal of the assessee. Being aggrieved on the sustained addition, the assessee filed an appeal before us.

4. The Ld.AR filed a paper book which is kept in the record (APB). The Ld.AR explained that the order was passed ex parte. The assessee was going through a family dispute, i.e. matrimonial dispute of her daughter. So, the assessee was unable to comply with the notices issued by the Ld.CIT(A). The grievance of the Ld.AR is that the addition amount of Rs.12,45,000/- as unexplained expenditure on the maintenance of appellant's daughter and grandson was not taken before the appellate authority, but the issue was taken as additional ground before the Ld.CIT(A). The said expenditure issue is duly covered by the order of the Ld.CIT(A) for A.Y. 2013-14 to 2017-18. But during this impugned assessment year, the addition is upheld. For this particular issue, a reasonable opportunity was denied to the assessee. The Ld.AR prayed for setting aside the matter to the file of the Ld.CIT(A) for further adjudication in this issue.

5. The Ld.DR argued and relied on the order of the revenue authorities.

6. We heard the rival submission and considered the documents available in the record. The single issue related to expenditure on maintenance of appellant's daughter and grandson amounting to Rs.12.45 lakhs is remained unadjudicated. The Ld.AR submitted the appeal orders from AYs 2013-14 to 2017-18, **APB pages 62 to 207**. In fact, the appeal was disposed of ex parte and the assessee was unable to submit the evidence before the Ld.AO. Considering the prayer of the

Ld.AR, there is genuine difficulty for the assessee to complete the hearing before the Ld.CIT(A). In our considered view, we remit back the matter related to the expenditure on maintenance of appellant's daughter and grandson to the file of the Ld.CIT(A). As the issue was duly covered by the Ld.CIT(A), it should be given fair chance to the assessee for second time in appeal. We are not expressing our view related to this addition as it will restrict the appeal proceedings. Needless to say, the assessee should get a reasonable opportunity of hearing before Ld.CIT(A). On the other hand, the assessee should be diligent and submit the relevant documents in favour of her claim for expeditious disposal of appeal.

7. In the result, **ITA No. 1233/Mum/2024** is allowed for statistical purposes.

Order pronounced in the open court on 18<sup>th</sup> day of June, 2024.

Sd/-

(GAGAN GOYAL)  
ACCOUNTANT MEMBER  
Mumbai, दिनांक/Dated: 18/06/2024  
Pavanan

sd/-

(ANIKESH BANERJEE)  
JUDICIAL MEMBER

**Copy of the Order forwarded to:**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,  
Mumbai
5. गार्डफाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar), **ITAT, Mumbai**