

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

**BEFORE SH. G.S. PANNU, VICE PRESIDENT
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No.2777/Del/2022
Assessment Year: 2017-18

Shabana Aqil Munir M-102, Greater Kailash-2, New Delhi PAN NO.AAHPA1604P (APPELLANT)	Vs.	ACIT Central Circle – 15 New Delhi (RESPONDENT)
---	------------	--

Appellant by	Sh. Sunil Kapoor, Advocate
Respondent by	Sh. Dharm Veer Singh, CIT DR

Date of hearing:	12/06/2024
Date of Pronouncement:	27/06/2024

ORDER

PER ANUBHAV SHARMA, JM:

The assessee has filed the present appeal against the order dated 23.09.2022 passed by Commissioner of Income Tax (Appeals)-28, New Delhi (here in after referred as 'CIT(A)') arising out of order of Assessment Order passed by ACIT, Central Circle-15, New Delhi order dated 28.12.2018 under Section 143(3) of the IT Act.

2. The assessee is an individual and derives income from business, rental and Income from other sources. She did not file the

return of income. A search and seizure operation was conducted on M/s. Shabana Group of cases and notice u/s. 142(1) of the Act was issued which was responded by filing return declaring of income of Rs.15,20,400/-. The AO examined assessee and recorded statement if any cash and jewellery was kept by assessee at any other premises for which she stated that Rs.1,25,00,000/- was given to her by her father in law Sheikh Mohd. Arif, and her brother Kamal Akhtar was handed this money, for herself and her sons. She stated this money is with her brother. However, when Kamal Akhtar was confronted. He stated that the father in law of assessee had not given any amount to him and that Shabana had placed a bag with cash at his house out of trust which she had taken away 3-4 days back. Subsequently assessee retracted this statement and stated that when her husband was alive her father in law had told her that he will given her Rs.1.25 crores for herself and her children. Out of which he had given Rs.34 lacs only few months back before the death of her husband and her father in law had stated that remaining Rs.91 lacs will be handed over to her brother which she may take whenever required and she has not received Rs. 1.25 crores from her father in law.

2.1 The AO was not satisfied with the submissions and accordingly made the addition of Rs.1.25 crores u/s. 68 of the Act which was restricted to Rs.10 lacs by the CIT(A) on the basis that apart from statements there was no other evidences with the AO. The CIT(A) was of the view that assessee had merely accepted having Rs. 34

lacs which were kept with her brother out of which Rs.24 lacs have been surrendered by her in the return of income which has been accepted. So remaining Ten lacks needs to be sustained.

3. The assessee has challenged the order of CIT(A) and raised the following grounds of appeal :-

“1. That the Ld. AO is unjustified in making an addition of Rs.1,25,00,000/- on account of unexplained cash u/s.68 read with section 115BBE of the Income Tax Act, 1961.”

4. On hearing both the sides, it comes up that the Ld. AR merely relies the statement of the father in law and the fact that father in law had surrendered Rs.1.25 crores under the Pradhan Mantri Garib Kalyan Yojna (PMGKY), which was announced by the government, post demonetisation, for people holding black money to come clean by paying 49.9 per cent tax and penalty on the undisclosed income. However, the Ld. AR was not able to convince as to how the surrender made by the father in law is relevant to the addition of Rs.10 lacs sustained by the CIT(A). Thus amount now disputed is only Rs. 10 lacs for which the CIT(A) has even examined the cash flow statement of father in law to conclude that father in law was not having sufficient cash balance to gift Rs.10 lacs to the assessee.

5. As we go across the statements reproduced in the impugned orders, we sustain the findings of CIT(A) that there has been inconsistency in the claim of assessee to justify the cash admittedly held by her. In any case if the money was not received from father in law and assessee had generated it by selling mould machines under GPA of father in law, then should have been reported in the return. We are of the considered opinion that as assessee was not filing the returns in previous years, such bald claims could not have been accepted by the CIT(A). The conclusion drawn by the CIT(A) requires no interference. The grounds raised in appeal have no substance and the appeal of assessee is dismissed.

Order pronounced in the open court on 27.06.2024.

Sd/-
(G.S. PANNU)
VICE PRESIDENT

NEHA

Date:- 27.06.2024

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI