

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No. 2911/DEL/2023
Assessment Year: 2017-18**

Gouri Madan, Legal heir of Late Shanti Devi Madan, 19/14, East Punjabi Bagh, New Delhi-110026. PAN- AALPM 2172 Q	<u>Vs</u>	DCIT, Ward 43(8), New Delhi.
APPELLANT		RESPONDENT
Assessee represented by	Shri Ashok Khandelwal, CA	
Department represented by	Shri T. Jamesh Singson, CIT(DR)	
Date of hearing	09.07.2024	
Date of pronouncement	18.07.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Appeals)-27, New Delhi, dated 18.08.2023,

pertaining to the assessment year 2017-18. The assessee has raised following grounds of appeal:

“1. The assessment order passed without providing proper opportunities to the appellant whose son Naveen Madan suffered brain hemorrhage in October 2018, and hospitalized during assessment proceedings and was not able to furnish the necessary reply to the A.O and ultimately died on 03.08.2022. is unjust, illegal, arbitrary and against the facts and circumstances of the case.

2. Action of the CIT (A) in confirming the action of the A. O. in making an addition of Rs 8,60,557/- on account of Jewellery found in bank locker, without considering the reply letter dated 17.12.2018 is unjust, illegal, arbitrary and against the facts and circumstances of the case

3. Action of the CIT (A) in confirming the action of the A. O. in making an addition of Rs. 13,75,000/- on account of Cash found in bank locker is unjust, illegal, arbitrary and against the facts and circumstances of the case

4. Action of the CIT (A) in confirming the action of the A. O. in making an addition of Rs2,44,000/- on account of Cash deposited in bank account is unjust, illegal, arbitrary and against the facts and circumstances of the case.”

2. Learned counsel for the assessee, apropos to the grounds of appeal, argued at length and submitted that the authorities below were not justified in making the impugned additions on protective basis in the hands of the assessee. He further submitted that authorities below failed to appreciate the facts and submissions made by the assessee. However, he submitted that the impugned additions were also made in the hands of Naveen Madan, now deceased, wherein the matter travelled up to the stage of Tribunal through his legal heir Shri Nikhil Madan in

ITA nos. 2912 and 2913/Del/2023 (A.Y. 2016-17 & 2017-18) and the Tribunal was pleased to set aside the impugned order of learned CIT(A) and restored the assessment to the file of the Assessing Officer for decision afresh.

3. Learned DR supported the orders of the lower authorities.

4. We have heard rival submissions and perused the material on record. The coordinate Bench of this Tribunal in the case of Nikhil Madan legal heir of late Naveen Madan v. DCIT in ITA nos. 2912 & 2913/Del/2023 vide order dated 31.01.2024 restored the matter to the file of Assessing Officer by observing as under:

“5. We have carefully considered the orders of the authorities below. We find that on three separate occasions the assessee has categorically pleaded for clear readable and complete copy of back up of mobile phones taken during the search proceedings, such request can be found from the submissions placed at pages - 4, 28 and 91 of the paper book.

6. We are of the considered view that the assessee has been denied proper opportunity to explain the case, therefore, in the interest of justice and fair play we restore the appeal to the files of the AO. The AO is directed to afford a reasonable and adequate opportunity of being heard to the assessee after providing all the material which he intend to use against the assessee.”

5. In the present case the additions had been made on protective basis. The additions made on substantive basis were set aside and restored back to the file of Assessing Officer by the Tribunal vide order dated 31.01.2024. Therefore, the impugned order in the present appeal is hereby set aside and the assessment in the

case of assessee is also restored to the file of Assessing Officer to decide it afresh after considering the objections of the assessee and the evidence so supplied by her. Grounds raised in this appeal are allowed for statistical purpose.

6. Appeal is allowed for statistical purposes.

Order pronounced in open court on 18th July, 2024.

Sd/-
(BRAJESH KUMAR SINGH)
ACCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

MP

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI