

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ 'SMC' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, AHMEDABAD

BEFORE SMT.ANNAPURNA GUPTA, ACCOUNTANT MEMBER

ITA No.841/Ahd/2024
Asstt.Year :2017-18

Rashmidevi Pugalia E-102 Safal Parishar-2 South Bopal Ahmedabad 380054 Gujarat. PAN : AFMPP 3106 P	Vs	ITO, ward-3(2)(4) Ahmedabad.
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(Applicant)		(Responent)
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Assessee by :	Shri Jignesh Parikh, AR
Revenue by :	Shri Hrishikesh Hemant Patki, Sr.DR

सुनवाई की तारीख/**Date of Hearing** : 24/07/2024
घोषणा की तारीख /**Date of Pronouncement**: 30/07/2024

आदेश/ORDER

The present appeal has been filed by the assessee against order passed by the Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi [in short referred to as ld.CIT(A)] under section 250 of the Income Tax Act, 1961 dated 27.02.2024 pertaining to Asst.Year 2017-18.

2. The grounds raised in the appeal are as under:

"1. On the facts and in the circumstances of the case as well in law, the Ld. National Faceless Appeal Centre, Delhi (hereinafter referred to as 'NFAC') has erred in law and in facts in Passing an Order u/s 250 without giving the adequate opportunity of hearing to the assessee.

2. On the facts and in the circumstances of the case as well in law, the NFAC has erred in law and in facts in confirming the Order Passed by Ld AO making addition to the tune of Rs.26,04,838/- u/s 69A.

3. On the facts and in the circumstances of the case as well in law, the NFAC has erred in law and in facts in confirming the Order Passed by Ld AO making addition to the tune of Rs.17,443/- under the head Income from Other Sources."

3. Ground No.1 and 3 were not pressed for adjudication before me, hence dismissed.

4. Only argument/contention made before me was with regard to the issue raised in ground no.2 being addition made on account of amount found deposited in the bank account of the assessee, amounting in all to Rs.26,04,838/-.

5. At the outset itself, the ld.counsel for the assessee stated that his solitary plea before the Tribunal was that the matter be restored back to the AO for reconsideration. The reasons, he pointed out was that, both before the AO and the ld.CIT(A), the assessee had not come present and both the orders, therefore, were passed *ex parte*; that therefore, no explanation for the source of amounts found in the bank accounts of the assessee could be given. The ld.counsel for the assessee fairly stated that there were no plausible reasons with the assessee for not appearing before the Revenue authorities, except for the fact that she was a lady who had never had anything to do with laws relating to taxation of incomes having no source of income warranting filing of return of income, and therefore, probably could make no sense of notices issued to her by the department. The ld.counsel for the assessee pleaded that the assessee to be excused for her non-cooperative attitude before the Revenue authorities and be allowed a chance to explain the case.

He contended that the credits in the bank account had two components; one cash deposits of Rs.16,09,000/- and other credit entries of Rs.9,95,838/-, thus totaling to Rs.26,04,838/-. He contended that during assessment proceedings, the assessee did attempt to explain certain deposits in the bank account, which is reproduced at page no.8 of the assessment order attributing deposits

to FD maturity proceeding's, saving bank account interest, rental income, dividend income, income from sale of shares, amounts received from husband's partnership firms, which were not accepted by the AO, since all remained unsubstantiated. My attention was drawn to the data so collated by the AO at page no.8 & 9 of his order as under:

Sr.No.	Particular	Total amount	Remarks
1.	FD Maturity proceeds	Rs.72,421/-	Not acceptable as no supporting evidence furnished by the assessee
2.	Saving bank interest	Rs.1,392/-	The same is treated as interest income of the assessee for the year under consideration.
3.	Rent Income	Rs.2,10,000/-	Assessee failed to furnish the rent agreement against which property let out by the assessee and its tax paid if any. Hence, the assessee contention of source of cash from rent received is not tenable. Hence, not acceptable.
4.	Dividend income	Rs.1,039/-	The same is treated as exempt income of the assessee for the year under consideration.
5.	Income from sale of shares	Rs.44,763/-	Assessee has not furnished any documentary evidence which show the

			sales transaction carried out by the assessee for the year under consideration made by the assessee. Hence, not acceptable.
6.	Amount received from husband's Partnership Firm FABCASA	Rs.2,26,000/-	assessee failed to furnish confirmation accounts, identify, Creditworthiness and genuineness of the transaction Hence, not acceptable
7.	Amount received from husband's Partnership Firm M/s.Chick N Curtains	Rs.1,41,000/-	Assessee failed to furnish confirmation accounts, identify, Creditworthiness and genuineness of the transaction . Hence, not acceptable
8.	Other deposit for which assessee has asked bank to give details of payee as the necessary evidence is not in the possession of the assessee	Rs.3,41,499/-	The assessee has just explained the source without documentary evidence, it is just nothing but afterthought cooked story. Hence, not acceptable

6. The ld.counsel for the assessee contended that the assessee is now in the possession of all the evidences with regard to the explanation of the same, and furnished the same before the Tribunal by way of additional evidences, and also in tabular form mentioning all the evidences for explanation of the source of cash deposits. He therefore pleaded that if the assessee is not given a fair chance, it would result in the assessee being liable to pay tax on amounts which are not even her income, which would be grossly unjustified. The PB was filed before me containing a table of all the credits in the bank account for which the assessee was now in position to explain the source along with evidences available with the assessee. PB consists of 41 pages.

7. The ld.DR vehemently opposed another opportunity being granted to the assessee.

8. Having heard contentions of both the parties, I am of the view that the assessee be given an another opportunity to explain her case, more particularly, taking note of the fact that the addition to her income includes that on account of banking transaction entries in her account which undeniably are from disclosed sources which only need corroboration. The assessee apparently is now in possession of all the evidences. No doubt, the assessee has been careless in not appearing before the authorities below, but at the same time, this careless attitude of the assessee does not in any way justify taxing deposits which the assessee is now in a position to explain the source of. But at the same time, her non cooperative attitude in the first round before Revenue authorities cannot be condoned without imposing a cost for the same, since on account of this attitude of the assessee, precious time of the Revenue authorities as also the Tribunal has been wasted.

We therefore consider it fit case to impose a cost of Rs.2,000/- on the assessee, which the assessee is directed to deposit with Gujarat State Legal Services Authority, Ahmedabad.

Subject to the payment of the cost, we restore the matter to the AO for reconsideration of the issue afresh.

9. In the result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the Court on 30th July, 2024 at Ahmedabad.

**Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER**

Ahmedabad, dated 30/07/2024