

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, MUMBAI**

**BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER AND**  
**SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA no.116/Mum./2024**  
**(Assessment Year : 2011-12)**

**Jisho Joseph V Mathew**  
Vadakkedathu House,  
Koothrappally, Karukachal,  
Kottayam, Kerala- 686540  
PAN-AMFPM6452K

..... Appellant

v/s

**Income Tax Officer**  
Ward- 31(2)(1)

..... Respondent

Assessee by : Mr. Tony C. Kallukalam  
Revenue by : Shri R.R. Makwana, Sr. DR

Date of Hearing – 07/08/2024

Date of Order – 26/08/2024

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The present appeal has been filed by the assessee challenging the impugned order dated 08/11/2023 passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [*"learned CIT(A)"*], for the assessment year 2011-12.

2. In this appeal, the assessee has raised the following grounds: -

*"1. During the year 2010-11, the Assessee's sister-in-law named Geetha Jibo had made the cash deposit of Rs.36,49,000 in the NRO bank account of the Assessee (State Bank of India-Account no: 57044321307).*

2. She has pooled the amount from different sources such as gold loan, chitty proceeds sale proceeds of a property, withdrawals from NRO/NRE accounts of relatives (as gift from relatives) and some agricultural income. She has arranged the money for her own brother Joseph who is working in UK for the purchase of a house property.

3. The aforesaid property was purchased by Joseph on 31.01.2011 for an amount of Rs.76,00,000/-. A part of the consideration was agreed to be by Geetha as he was in some financial crisis. For this transaction, Geetha has the pooled money.

4. When she had approached the bank to deposit in her account, bank was reluctant to make the cash deposit as her account was not having enough transactions That is why, she had deposited the amount in the account of the Assessee (her brother-in-law), who was an NRI at that time.

5. The amount of Rs. 35,00,000/- was then transferred to the account of Geetha (State Bank Of India, Savings Account No. 067061671856) on 28.01.2011. From Geetha's account amount was transferred to the sellers of the above mentioned property on 31.012011.

6. Therefore the major cash deposits made in the bank account of the Assessee during F.Y. 2010-11 was not in relation to any income of the assessee, rather it was the money pooled by his sister-in-law from various sources as explained in paragraph-2above for the purchase of property for her brother as explained in paragraph-3.

7. For these and other ground to be adduced at the time of hearing, it is prayed that the assessment and the demand raised against the assessee may kindly be quashed."

3. We have considered the submissions of both sides and perused the material available on record. In the interest of justice, the slight delay of 1 day in filing the appeal is condoned. In the present case, at the outset, it is evident from the record that the learned CIT(A) has passed the order ex-parte due to the non-appearance of/on behalf of the assessee. Now in appeal before us, the assessee is duly represented by the learned AR and wishes to pursue the litigation against the addition made by the AO. The learned AR submitted that the assessee is an individual and was in India only up to 2006 and thereafter he was settled in Dubai from 2006-2020. Therefore the assessee could not attend the assessment proceedings and file the necessary details before the AO. It was further submitted that only upon attachment of the Bank Account in 2018, the assessee became

aware of the additions made by the AO. The learned AR undertook that if the matter is restored to the file of the learned CIT(A), he shall attend the appeal proceedings on behalf of the assessee. In view of the above, we are of the considered opinion that in the interest of justice, the assessee be granted one more opportunity to represent its case on merits before the learned CIT(A). Consequently, we deem it fit and proper to set aside the impugned order and restore the matter to the file of the learned CIT(A) for *de novo* adjudication of the appeal on merits after consideration of all the details/submissions as may be filed by the assessee. Needless to mention no order shall be passed without affording a reasonable and adequate opportunity of hearing to the parties. The assessee is directed to appear before the learned CIT(A) on all the dates of hearing as may be fixed without any default. As the matter is being restored to the file of the learned CIT(A) for adjudication on merits, the other grievances raised by the assessee in the present appeal do not call for adjudication at this stage. Accordingly, grounds raised by the assessee are allowed for statistical purposes.

4. In the result, the appeal by the assessee is allowed for statistical purposes.  
Order pronounced in the open Court on 26/08/2024

**Sd/-**  
**RENU JAUHRI**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 26/08/2024**

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar  
ITAT, Mumbai