

आयकर अपीलीय अधिकरण 'बी' न्यायपीठ चेन्नई में।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI**

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
माननीय श्री अमिताभ शुक्ला . लेखा सदस्य के समक्ष।
**BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER
AND HON'BLE SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकरअपील सं./ ITA No.619/Chny/2024
(निर्धारणवर्ष / Assessment Year: 2017-2018)

Valliappan Lakshmanan,
No.51, Cart Track Road,
Maduvankarai,
Guindy,
Chennai 600 032.

Vs. The Income Tax Officer,
Non Corporate Ward 19(6)
Chennai.

[PAN: AADPV 6468N]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri S.P. Chidambaram, Advocate
: Ms. Gouthami Manivasagam, IRS, JCIT

सुनवाई की तारीख/Date of Hearing

: 31.07.2024

घोषणा की तारीख /Date of Pronouncement

: 23.08.2024

आदेश / ORDER

MANU KUMAR GIRI (Judicial Member)

This appeal filed by the assessee is directed against the order of the Ld. Commissioner of Income Tax (Appeals), (NFAC), DELHI [‘CIT(A)’ in short] in order No.ITBA/NFAC/S/250/2023-24/1060966419 (1) dated 15.02.2024 for Assessment Year 2017-18.

2. The assessee has raised the following grounds appeal are raised:-

‘1. The order of the Commissioner of Income-tax (Appeals) [CIT(A)] is contrary to law, facts and circumstances of the case.

2. *The CIT(A) erred in confirming the order of the Assessing Officer in making an addition of Rs. 15,00,000/- under Section 69 of the Act.*
3. *The CIT(A) ought to have appreciated that the amount of Rs.15,00,000/- was received as cash gift (duly evidenced by gift deed) from Appellant's father Mr Ar.Lakshmanan and as such the said funds cannot be considered as unexplained investment.*
4. *The CIT(A) failed to appreciate that there is no legal mandate to register cash gift deed and as such the gift deed cannot be rejected on that premise.*
5. *The CIT(A) failed to appreciate that the donor Mr Ar.Lakshmanan had sufficient cash withdrawal over a period of time, which was granted as cash gift during the subject AY.*
6. *The CIT(A) ought to have appreciated that the Appellant has already furnished substantial evidence to prove that his donor and father Mr Ar.Lakshmanan had sufficient source to grant such gift.*
7. *The Appellant craves leave to adduce additional grounds and/or amend, rescind grounds of appeal at the time of hearing”.*

3. Brief facts of the case are that the assessee had filed his return of income for A.Y. 2017-18 on 27.10.2017 declaring a total income of Rs. 9,99,240/-. The case of the appellant was selected for scrutiny under CASS with a reason to verify the cash deposited in his bank account during the year. The AO during the course of the assessment proceedings show caused the appellant that on perusal of the details filed by the appellant seen that the bank account pertaining to Corporation Bank Velachery was omitted to be taken into account in arriving at your total income. Assessee was asked why the amount of Rs.46,47,361/- should not treated as your income and assessed to tax. The appellant did not file any reply in response to the show cause notice hence the AO completed the assessment proceedings by making an addition of Rs.46,47,361/- to the returned income of the appellant. During the course of the appellate proceedings the appellant submitted additional evidence which was not submitted before the AO hence the same was forwarded to the AO for his comments. The AO has not submitted anything regarding the admissibility of

the same under Rule 46A so in view of the principles of natural justice the additional evidence submitted by the appellant is admitted by the Id. CIT(A). The AO has submitted his report on the additional evidence submitted by the appellant vide his letter no. ITBA/NFAC/F/24/2023-24/1060048731(1) dated 24.1.2024. In remand, the Id. Assessing Officer has accepted the explanation of the assessee on the issue at Sl.No.1, 3 & 4 but rejected the explanation of the assessee on the issue at Sl.No.2 as mentioned below:-

Sl.No	Particulars	Amount in (Rs.)
1	Cash deposited on various dates as per bank statement out of the amount drawn from assessee's proprietary business named M/s. Sabha Indane Gas Agency and contribution received from his wife for the purchase of flat at Karaikudi in the joint name of L Valliappan and V Parva thi.	Rs. 19,42,361/-
2	Cash received from his father Mr. A.R. Lakshmanan (PAN ACQPL1895A) for the purchase of flat at karaikudi in the joint name of L Valliappan and V Parvathi	Rs. 15,00,000/-
3	Loan from Indusind Bank	Rs. 9,95,000/-
4	Amount received from M/s. VP Promoters for the excess amount paid.	Rs. 2,10,000/-
	Total	Rs. 46,47,361/-

The Id. CIT(A) after the perusal of the remand report submitted by the Id. Assessing Officer observed that the AO has agreed with the contentions of the appellant except the claim of the appellant, having received Rs. 15,00,000/- in cash as gift from his late father. The Id. CIT(A) further observed that the appellant has not been able to substantiate his claim with evidence before the AO. Hence, the Id. CIT(A) after perusing the findings of the Id. Assessing Officer sustained the addition of

Rs.15,00,000/- and deleted the other additions. Aggrieved, the assessee is in appeal before us.

4. The Id.Counsel Mr. S.P.Chidambaram, Advocate for the appellant has referred section 18(d) of the Registration Act, 1908 and section 123 of the Transfer of Property Act, 1882 (pages 6-7 & 13 of the additional paper book) and contended that in the case of gift of moveable property, compulsory registration is not required. The Id.Counsel submitted that when gift deed is genuine, hence partial addition by the Id.CIT(A) is not justified.

5. Per contra, Id.JCIT-DR vehemently supported the impugned order of the Id.CIT(A) and prayed for dismissal of appeal.

6. We have perused the orders of Id.CIT(A) and Id.AO. We have also gone through the paper books filed by the assessee. Section 18(d) of the Registration Act, 1908 and Section 123 of the Transfer of Property Act, 1882.

Section 18 (d) of the Registration Act, 1908 reads as under:

"18. Documents of which registration is optional- Any of the following documents may be registered under this namely.

(a).....

(b).....

(c).....

(d) instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in movable property".

Section 123 of the Transfer of Property Act, 1882 reads as under:-

"For the purpose of making a gift of immoveable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses.

For the purpose of making a gift of moveable property, the transfer maybe effected either by a registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivery".

7. The relevant extract of gift deed dated 23.04.2016 is as under:

GIFT DEED

This deed of gift made on Saturday, the 23rd day of April 2016 between Mr. AR.Lakshmanan S/O Late V. AR. Arunachalam Chettiar Aged 88 Years Resident of 1/79, RM.K.AR.ST, Attangudi-630101 (Hereinafter Called The "Donor") Of The One Part

And,

Mr.L. Valliappanaged 60 Years, Resident Of Plot 1775, 4th Main Road, TNHB Colony, Velachery, Chennai-600042 (Hereinafter Called The "Donee") Of The Other Part

Witnesseth as follows:

In consideration of natural love and affection being the son of Donor, the donor hereby assigns to the donee a sum of Rs.15,00,000/-(Rupees Fifteen Lakhs Only) to be held by the donee absolutely for purchase of Land and Construction of Building at Flat No:S4, V.P. Paradise, Taluk Office Road, Karaikudi-630001.

The possession of the Rs.15,00,000/-(Rupees Fifteen Lakhs Only) hereinabove donated unto the donee and has been physically handed over to the donee as absolute owner before execution of this Gift Deed.

The said Gift of Rs.15,00,000/-(Rupees Fifteen Lakhs Only) has been accepted by Mr. L.Valliappan as per Annexure-A enclosed.

The donor from this date reserves no right or interest on the said sum hereby gifted which shall from this day be the sole and exclusive property of the donee.

The property hereby gifted is the donor's self-acquired property accumulated out of income earned and has full right and authority to dispose of the same in any manner he may think fit.

In witness whereof, the parties hereto have put their respective signatures on this Deed of gift in presence of witnesses.

*AR. Lakshmanan
Donar*

*L. Valliappan
Donee*

8. Therefore, in the light of above sections, it is clear that in the case of gift of moveable property, compulsory registration is not required. We also find that neither the genuineness of the 'Gift deed & Annexure-A' dated 23.04.2016 nor the contents thereof were doubted by the lower authorities. We further find that donor was used to withdraw huge cash from his bank account and also paid huge cash money to Aruna, Arunachlam L, LNLL, Deivana, Subra, L Valli etc in past years prior to execution of Gift Deed. We have also perused the Indian Bank account of the donor, it is discernible that donor was quite well off and affluent, hence credit worthiness of donor as doubted by the lower authorities is not correct. In this case, assessee has successfully established the Identity of donor and donee, credit worthiness of the donor, reasons and occasion for receiving the gift and making the gift, the relationship between the donor (father herein) and donee (son herein) to establish that the gift was made out of natural love and affection. Therefore, all the conditions as per section 68 of the Act have been satisfied by the assessee. In our considered view that the Id.CIT(A) ought to have accepted the explanation of the assessee in this regard. Hence, impugned order of Id.CIT(A) sustaining the addition

of Rs.15,00,000/- made by the AO is set aside and accordingly, we delete the addition of Rs.15,00,000/- on account of cash gift received from his father.

9. In the result, appeal filed by the assessee is allowed.

Order pronounced in the open court on 23rd day of August, 2024 at Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / JUDICIAL MEMBER

चेन्नई Chennai:

दिनांक Dated : 23-08-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF