

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD
BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER
AND
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

**ITA No.266/Ahd/2024
Assessment Year : 2018-19**

Bhavin V. Maniar B-202, Vraj Vihar 7 Opp: Hans Residency Prahladnagar Ahmedabad. PAN : BZEPM 0471 R	Vs.	ITO, Ward-1 Int. Taxation, Ahmedabad.
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(Applicant)		(Respondent)
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Assessee by	:	Shri Parin Shah, CA
Revenue by	:	Shri Prothviraj Meena, CIT-DR

सुनवाई की तारीख / Date of Hearing : 22/10/2024
घोषणा की तारीख / Date of Pronouncement: 22/10/2024

आदेश/ORDER

PER DR. BRR KUMAR, ACCOUNTANT MEMBER

Present appeal has been filed by the assessee against order passed by the ld.Income Tax Officer, Ward-1, Int. Tax, Ahmedabad [hereinafter referred to as “Ld.AO”] dated 30.1.2024 passed under section 144 read with section 147 and the section 144C(13) of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short] for the Asst.Year 2018-19.

2. The assessee has taken up for adjudication the following grounds:

1. *The direction passed by Hon'ble DRP is invalid, bad in law and required to be modified.*

2. *Ld. DRP erred in giving direction to AO to confirm the addition u/s 69 of the Act of Rs.79,35,000/- by treating investment as unexplained without considering documentary evidences.*
3. *Ld. DRP ought to have verify the facts that all amount received through proper banking channel from country of residence and accordingly same cannot be treated as unexplained investment.*
4. *The reopening of assessment u/s 148 is bad in law and required to be quashed.*
5. *Ld. NFAC erred in law and on facts in proceeding with assessment without issuing notice u/s 143(2) of the Act.*
6. *Initiation of penalty proceedings u/s.271AAC is unjustified.*
7. *Ld.DRP erred in law and on facts in taxing addition made by them as per section 115BBE of the Act.*

3. As the facts emanate from the record, during the year the assessee has indeed purchased a property valued at Rs.79,35,000/-. In the draft assessment order, the Assessing Officer proposed addition of Rs.1,58,70,000/-. The ld.DRP found that he AO wrongly proposed the addition of double the amount of investment, and hence restricted the impugned addition to Rs.79,35,000/-. Aggrieved, the assessee filed appeal before the Tribunal.

4. Before us, the ld.counsel for the assessee submitted that the assessee has purchased the property at Satellite Area, Ahmedabad for a sum of Rs.79,35,000/- for which an amount of Rs.49,55,650/- has been received as loan from HDFC Bank and the remaining amount from his own source and from his father.

On the other hand, the ld.DR relied on the order of the DRP and argued that the assessee has not filed any relevant details before the Revenue authorities to prove the factum of receipt of bank loan, and also to prove this own source of funds, which have been allegedly transferred from the USA to India. The ld.DR also objected that the bank advice was not a final document to prove genuineness of the

transfer of amounts from the USA to HDFC account of the assessee. The Id.DR has also objected that no proof has been given to establish that the bank indeed offered funds to the assessee to purchase the property in question.

5. Heard arguments of both the parties and perused the record. The paper-book containing 285 pages has been examined. Page No.279 gives entire details of payment made by the assessee with regard to the purchase of the property from 30.7.2016 to 19.1.2018. At page no.183 we could find the sanction letter of the bank for loan of Rs.50.00 lakhs which has been duly disbursed to the builder as per the purchase deed mentioned at page no.49 to 108.

With regard to own source of funds of Rs.14 lakhs dated 30.7.2016 and Rs.5.00 lakhs dated 19.8.2016, we have gone through the bank account of the assessee with the HDFC Bank and also authorization of the transaction from the USA to India, given to the bank. As per the advice of the bank, the amounts have been transferred from the bank account reflected in the tax returns of the assessee in the USA, thus, proving that the amounts have been indeed transferred from the assessee's own bank account in the USA to the assessee's bank account in India. Hence, the amount of Rs.14.00 lakhs and Rs.5.00 lakhs can be treated as explained.

6. Now, the issue remains with regard to proving of source of Rs.10 lakhs, which the assessee submitted that he has received the amount from his father in the year 2016 from Indian Bank, Dhanalaxmi Society, Ahmedabad. The assessee submitted that even the father of the assessee viz. Vyomesh Maniar expired on 19.8.2016 in New York, hence, he was unable to submit the bank statement before the Revenue authorities. He submitted that even the assessee is also an

NRI and owing to paucity of the time, the assessee could not collect the details to the Revenue authorities. It was also submitted by the Id.counsel for the assessee that the same would be submitted to the Revenue authorities once the same collected from the bank, and hence keeping in view the entire factum of the case, we hold that the amount of Rs.69,35,000/- stands explained, and the details pertained to Rs.10 lakhs are required to be submitted to the AO by the assessee, which the AO shall examine, and the assessee shall submit all these relevant details within three months from the date of this order.

The Id.DR fairly agreed to the contention of the Id.AR that the AO shall be allowed to make inquiry, as he deems fits, for adjudicating the issue afresh.

7. In the result, the appeal of the assessee is partly allowed.

Dictated on the Open Court, typed and pronounced on 22nd October, 2024.

Copy of this order be given to the assessee. The Registry is directed to dispatch as per procedure.

Order pronounced in the Court on 22nd October, 2024 at Ahmedabad.

**Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER**

**Sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER**