

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH : BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No.1868/Bang/2024
Assessment year : 2018-19

Ayesha, Shop No.29, 2 <sup>nd</sup> Floor, Prop. Rajastani Mehandi, Veerapillai Street, Shivajinagar, Bangalore – 560 001. <b>PAN: AHJPA 3268N</b>	Vs.	The Income Tax Officer, Ward 1(2)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	None
Respondent by	:	Shri Ganesh R. Gale, Standing Counsel

Date of hearing	:	11.11.2024
Date of Pronouncement	:	18.11.2024

**ORDER**

*Per Prashant Maharishi, Vice President*

1. This appeal is filed by Ayesha (the assessee/appellant) for assessment year 2018-19 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT(A)] dated 08.11.2023 wherein the appeal filed by the assessee against the assessment order dated 24.04.2021 passed u/s. 143(3) r.w.s. 144B of the Income-tax Act, 1961 (the Act) by the National e-Assessment Centre, Delhi (Id. AO) was dismissed.

2. Assessee is aggrieved and has raised the following grounds of appeal: -

“1) The order of the learned Commissioner of income tax (Appeal), passed under section 25o of the Act in so far as it is against the Appellant is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant's case.

2) The Appellant denies herself liable to be assessed total income of Rs. 15,59,895/-against the return of income of Rs.3,49,895/- for AY 2018-19 on the facts and circumstances of the case.

3) The Ld. CIT(A) failed to appreciate that the assessment order passed by Learned Assessing Officer u/s 143(3) of IT Act 1961 without provided proper opportunity being heard on the facts and circumstances of the case.

4) The Ld. CIT(A) was erred in not appreciating that the addition made by the Learned Assessing officer treating cash payment of Rs.12,10,000/- to the credit card as unexplained expenditure u/s 69C of Income tax Act, 1961 is bad in law on the facts and circumstances.

5) The Ld. CIT(A) failed to appreciate that the cash paid to credit card payment out of the amount received from the relatives and friends on the facts and circumstances.

6) The Ld. CIT(A) failed to appreciate that the confirmation, ITR and cash flow statement were submitted by the appellant for substantiating the cash payment on the facts and circumstances of the case.

7) The Id. CIT(A) failed to appreciate that the expenditure was made out of known sources and the provisions of section 69C were not attracted in the instant case, on the facts and circumstances of the case.

8) The Ld. CIT(A) failed to appreciate that the provisions of section 115BBE of the Act, since the same are not applicable in

the present facts and consequently the computation arrived at is erroneous, on the facts and circumstances of the case.

9) Without prejudice to the right to seek waiver as per the parity of reasoning of the decision of the Hon'ble Apex Court in the case of Karanvir Singh 349 ITR 692, the Appellant denies herself liable to be charged to interest under section 234 of the Income Tax Act under the facts and circumstances of the case. The appellant contends that the levy of interest under section 234A , 234B and 234C of the Act is also bad in law as the period, rate, quantum and method of calculation adopted by the learned assessing officer on which interest is levied are not discernible and are wrong on the facts of the case.

10) The appellant craves leave to add, alter, amend, substitute, change and delete any of the grounds of appeal.

11) For these grounds that may be urged at the time of hearing of appeal, the appellant prays that appeal may be allowed for the advancement of substantial cause of justice and equity.”

3. Brief facts of the case show that assessee is an individual, who filed her return of income on 08.8.2018 at a total income of Rs. 3,49,895/-. This return was selected for limited scrutiny assessment under the e-Assessment Scheme, 2019 for the purpose of verification of credit card payment. The assessee was issued notice u/s. 143(2) and 142(1) of the Act.
4. It was found that assessee is an individual and carrying on business in the name and style of 'Rajasthani Mehandi' at Bengaluru. She has made a payment of Rs. 15,04,800 towards her outstanding dues of credit card. The AO noted that the credit card purchases made by the assessee were not related to her business, but of personal nature. The assessee submitted that she

has used her credit card to purchase for her relatives and neighbours. She received cash from them and deposited it in her bank account for making payment to the credit card company. The AO noted that out of total cash payment of Rs.15,04,800 towards payment of credit card, assessee has paid only Rs.2,94,800/- out of her mehendi business and remaining amount of RS.12,10,000/- has been paid out of cash received from other relatives. She filed confirmation letters in support of her claim. It was submitted before the AO that she is not maintaining any books of account, but offering return of income u/s. 44AD of the Act. She produced her bank statement, credit card statement and confirmation letters from whom cash is received. The AO did not believe the explanation of the assessee as assessee could not produce the cash flow statement as well as the creditworthiness of the parties. Therefore, addition of Rs. 12,10,000/- as unexplained expenditure u/s. 69C of the Act was made assessing total income at Rs.15,59,895 against the returned income of Rs.3,49,895.

5. Aggrieved, assessee filed appeal before the Id. CIT(A). The assessee submitted before him that a sum of Rs. 6,50,580 has been received by her in the form of business receipt, cash rent received and salary received. Further, the balance sum was received from various relatives for which confirmation letters were produced. Assessee also submitted month-wise details of cash received from those persons and the amount of credit card

expenditure made on their behalf. The assessee further objected that provisions of section 69C does not apply.

6. The Id. CIT(A) considered the explanation of the assessee, but rejected the same holding that assessee could not produce the bank statement of other persons as well as their return of income who gave money to the assessee which was deposited in her bank account for onward payment to credit card company. The Id. CIT(A) further held that it is hard to believe that assessee has used her credit card for carrying out transactions of other parties, when all these parties have bank accounts of their own. It was further held that assessee has accepted in cash more than Rs.20,000/- from these transactions which is prohibited. Thus, the addition was confirmed holding that the submission of the assessee is unsubstantiated and not sufficient for deletion of addition.
7. The assessee aggrieved with the order of the Id. CIT(A) preferred appeal before us. However, on the appointed date, none appeared on behalf of the assessee. Further, on the earlier occasion also, nobody appeared on behalf of the assessee. Therefore, as no request for adjournment is received, the appeal is decided on merits of the case, as per information available on record.
8. The Id. DR, Mr. Ganesh Gale, Standing Counsel, was heard. He submitted that when the assessee has failed to show the source of

payment made for payment of her credit card bills, the addition is rightly made and confirmed by the lower authorities.

9. We have carefully considered the contention of the Id. DR and perused the orders of the Id Lower Authorities. The brief facts clearly show that assessee is an individual, her payment to the credit card company is of Rs.15,04,200 by depositing cash in her bank account. The explanation of source to the extent of Rs. 2,94,800 was accepted by the AO as source of income from her mehendi business. For balance sum of Rs. 12,10,000, the assessee has given the details of persons stating their PAN. She named 7 parties stating their PAN and the amount of cash received from them. She has also filed their confirmation letters. As she could not file copies of their return of income, the Id. lower authorities considered that the explanation of the assessee is not substantiated. We find that assessee has given the source of Rs. 6,50,580 being received by her from business, rent and salary. Further, before the Id. CIT(A), the assessee has submitted copy of income-tax return of 3 persons, who have confirmed to have paid the sum of Rs.6,78,840 to her. The assessee could not produce the income-tax return of 4 persons from whom the assessee has received Rs. 5,31,160. Neither there is any inquiry by the Id CIT (A) or Id AO on this evidence but made an addition u/s. 69C of the Act.

10. The provisions of section 69C of the Act provides that where in any financial year assessee has incurred expenditure and offers no explanation about the source of such expenditure or explanation offered by him is not satisfactory, then the amount covered by such expenditure is deemed to be income of the assessee for such financial year.
  
11. In this case, the assessee has incurred expenditure of Rs. 15,04,800 out of which the assessee was not able to justify the source of such expenditure to the extent of Rs.12,10,000 which was added to the total income of the assessee u/s. 69C of the Act. In fact, the assessee has offered an explanation about those expenditure by giving the name of the persons from whom cash is received along with their confirmation letters wherein their PANs are mentioned. The ld. AO has not made any enquiry or did not cast further burden on the assessee to substantiate her explanation, but made the addition. Even before the CIT(A) also, assessee reiterated the submissions and also substantiated by producing the income-tax return of these persons. She could not produce the income-tax return or source of funds available with 4 persons amounting to Rs.5,31,160 only. When ROI of those persons were produced before the ld CIT (A) the addition was made because assessee did not produce their bank accounts. Thus, according to us, explanation furnished by the assessee for the source of expenditure incurred by the assessee is properly examined. Thus, we restore the matter back to the file of ld.

Assessing Officer with a direction to the assessee to substantiate the source of above sum in the hands of the persons, who paid the assessee the above sum for incurring expenditure by her credit card. Thus, to that extent, the orders of the ld. lower authorities are reversed. Accordingly, ground No. 4 of the appeal of the assessee is partly allowed and all other grounds, either consequential or general in nature are dismissed.

12. Accordingly, the appeal of the assessee is partly allowed.
13. Pronounced in the open court on this 18<sup>th</sup> day of November, 2024.

Sd/-  
( KESHAV DUBEY )  
JUDICIAL MEMBER

Sd/-  
( PRASHANT MAHARISHI )  
VICE PRESIDENT

Bangalore,  
Dated, the 18<sup>th</sup> November 2024.

*/Desai S Murthy/*

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.