

**DIN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.4880/Mum/2024
(Assessment Year :2017-18)**

Reshma Sabir Khan Suhanapark Room No.05 Apna Bazar JPRD Apna Bazar Andheri West Maharashtra-400058	Vs.	ITO Ward, 24(3)(1) Piramal Chamber Mumbai
PAN/GIR No.CJHPK9362D		
(Appellant)	..	(Respondent)

Assessee by	Shri Prakash Jhujhunwala
Revenue by	Shri R. R. Makwana
Date of Hearing	20/01/2025
Date of Pronouncement	29/01/2025

आदेश / O R D E R

PER AMIT SHUKLA (J.M):

The aforesaid appeal has been filed by the assessee against order dated 27/07/2024 passed by NFAC, Delhi for the quantum of assessment passed u/s.144 for the A.Y.2017-18.

2. In various grounds of appeal, assessee has challenged following additions:-

Ground No.	Particulars	Amount (Rs.)
1	Loans received from 3 related parties & 3 unrelated parties	54,06,494
2	Tuition Fees (disclosed in return of income)	13,12,000
3	Inter Bank transfers from one bank account to others	44,62,667
4	Excess credit in ICICI Bank A/c No. 037701515661	11,998
5	Cash Deposits made in bank accounts	11,24,500
6	Credits in Bank A/c of Mr. Sabir Baig (Husband) taxed in hands of assessee	4,99,000
7	Credits in Bank A/c of Miss. Laiba Khan (Daughter) taxed in hands of assessee	14,59,277
8	Reversal/cancellation of cheques/RTGS	3,16,023
	Total	1,45,91,959

3. The brief facts are that assessee is a teacher engaged in providing private tuitions/classes to students of secondary education. The assessee did not file her return of income. The Id. AO, upon receipt of an information from ITD system, observed that the assessee had made cash deposits in bank accounts and accordingly, issued the notices u/s 142(1) on directing the assessee to file her return of income. Accordingly, the assessee

filed her return of income on 13/11/2019 on disclosing the total income of Rs. 9,39,730/-. It has been stated that ld. AO did not issue the statutory notice u/s.143(2) and only issued notices u/s.142(1) on calling for various information and documents. Assessee could not furnish relevant documents on the ground for the reason that she was suffering from bone cancer and in support of which she has filed her medical records in the paper book from pages 178-253. Her husband who was looking after her accounts and other matters, suffered from heart ailment and copy of his medical reports had also been furnished before us. It had been stated that in response to show-cause notice dated 26/09/2019, the assessee filed the replies along with supporting documents on 14/11/2019 and 13/12/2019. The assessee filed the copies of Income tax return, computation, confirmation of loans, cash book, bank statements and details of credit entries appearing in bank statements, etc., before the AO. The assessee submitted that 2 bank accounts belong to her husband Mr. Sabir Baig and daughter Miss. Laiba Khan and she is a mere nominee of such bank accounts. The assessee submitted that the tuition fees had already been disclosed in her return of income and pointed the instances of inter- bank transfers of cheques/RTGS and reversal of entries due to dishonor of cheques/RTGS. The ld.AO issued the notices u/s 133(6) to banks and lenders and relevant replies had been received from such parties. Thereafter, ld.AO did not issue any show cause notice and did not provide the copies of contrary material to the assessee for rebuttal and passed the best judgment assessment

order u/s 144 and made the addition u/s 69A of entire cash and cheques credits reflected in 4 bank accounts of Rs. 1,47,77,104/-.

4. It has been stated that before the ld. CIT(A) assessee had filed submissions with various documentary evidences on 26/05/2021, 06/01/2023, 24/07/2023, 01/08/2023, 21/11/2023, 07/12/2023, 08/12/2023, 26/12/2023, 28/02/2024, 08/04/2024, 17/07/2024, 20/07/2024 and 26/07/2024. The assessee vide letters dated 07/12/2023 and 26/12/2023 requested the ld. CIT(A) to call for a remand report and consider the submissions, documents and medical record filed on assessment and appeal record. However, ld. CIT (A) did not call for the remand report and also did not consider the assessee's submissions, confirmation of loans, bank statements, explanation of credit entries appearing in bank accounts including cash deposits, cash book, 2 bank accounts belonging to her husband and daughter, entries of Inter-bank transfers, entries of reversal of cheques/RTGS and other documents filed on record and confirmed the entire additions as made ld.AO by the ld.AO. Thus, it was submitted that even ld. CIT(A) neither has considered any submissions nor has made arbitrary additions and even the bank accounts did not belong to her and assessee is merely a nominee.

5. The ld. DR on the other hand submitted that matter should be restored back to the file of the ld. AO to examine all these documents and none of the authorities have examined the same.

6. Thus, in the interest of justice, we are restoring this issue back to the file of the ld. AO to consider all these documents and contention of the assessee and pass the order in accordance with the law after giving due opportunity of hearing to the assessee and also liberty to the assessee to furnish further details and documents as and when required. In the result, all the grounds raised by the assessee are allowed for statistical purposes

7. In the result, appeal filed by the assessee allowed for statistical purposes.

Order pronounced on 29th January,2025.

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Mumbai; Dated 29/01/2025
KARUNA, *sr.ps*

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai