

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "SMC" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER
AND
SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

ITA No. 286/Mum/2025
Assessment Year : 2017-18

Chhaya Vasudeo Angne, Flat No. 201, Shiv Parvati CoOp HSG Society Ltd., Sector 28, Plot 42/A, Nerul West, Navi Mumbai PAN :ASNPA7051N	vs.	Income Tax Officer, Ward-28(1)(1), Tower No. 6, Vashi Railway Station, Commercial Complex, Vashi, Navi Mumbai
(Appellant)		(Respondent)

Assessee by : Shri Prakash Jotwani
Revenue by : Smt. Usha Gaikwad, Sr.DR

Date of Hearing : 04-03-2025
Date of Pronouncement : 07-03-2025

ORDER

PER B.R. BASKARAN, A.M :

The assessee has filed this appeal challenging the order dt.26-11-2024 passed by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’] and it relates to AY. 2017-18. The only issue urged in this appeal is whether the gift of Rs. 6,11,000/- received by the assessee from her daughter-in-law is assessable to tax u/s. 56(2)(vii) of the Income Tax Act, 1961 (‘the Act’).

2. The facts relating to the issue are that the assessee is an individual and it was noticed by the AO that the assessee has deposited

a sum of Rs.13.77 lakhs into her bank account during the year under consideration. The AO noticed that the assessee has not filed her return of income for the year under consideration. Hence, the AO reopened the assessment of the year under consideration by issuing a notice u/s. 148 of the Act in order to examine the sources of above said deposits.

2.1. With regard to the sources of deposits, the assessee explained that she has received gifts from her son and daughter in law. The assessee stated that she has received a gift of Rs. 10,56,000/- from her son, Mr. Rohan Angne and a sum of Rs. 6,11,000/- from her daughter-in-law, Smt. Nazia Angne. Though AO accepted the genuineness of receipt of gifts, yet he took the view that the gift of Rs. 6,11,000/- received by the assessee from her daughter-in-law would be taxable as income of the assessee under the head Income from other sources, since the AO appears to have taken the view that “daughter in law” cannot be considered as a “relative” of the assessee within the meaning of Income tax Act. Accordingly, the AO assessed the same as income of the assessee. The Ld.CIT(A) also confirmed the same.

3. We heard the parties and perused the record. The AO has assessed the impugned gifts received by the assessee from her daughter in law as income of the assessee, apparently u/s 56(2)(vii) of the Act. Under that section, any sum of money received by an individual or Hindu Undivided Family in excess of Rs.50,000/- without consideration is liable to be taxed as income in the hands of that individual/HUF. However, the fourth proviso to sec.56(2)(vii) of the Act provides exemption from taxation, if the said amount is received from any relative. Hence gift received by an individual/HUF from his relatives (as defined under that section) is not taxable u/s.56(2)(vii) of the Act.

4. Now the question that arises for adjudication is whether or not the “daughter in law” (Donor) of the assessee falls under the category of “relative” of the assessee, being the mother in law of the donor. We notice that the word “Relative” is defined in the Explanation(e) to sec. 56(2)(vii) of the Act as under:-

(e) “relative” means,-

(i) in case of an individual-

(A) spouse of the individual:

(B) brother or sister of the individual;

(C) brother or sister of the spouse of the individual;

(D) brother or sister of either of the parents of the individual;

(E) **any lineal ascendant or descendant of the individual;**

(F) any lineal ascendant or descendant of the spouse of the individual;

(G) **spouse of the person referred to in items (B) to (F);**

and

(ii) in case of a Hindu undivided family, any member thereof;]

5. The Ld.AR submitted that the son of the assessee would a lineal descendant as per item (E) mentioned above and hence he will fall under the definition of “relative”. Further, item (G) mentioned above included “spouse” of persons referred to in items (B) to (F). The Daughter-in-law, being spouse of son covered in item(E), would be covered by item (G) to Explanation(e) to sec. 56(2)(vii) of the Act. Accordingly, the Ld A.R submitted that the “daughter in law” will fall under the category of “relative” defined in sec.56(2)(vii) of the Act. In this connection, the Ld.AR placed reliance on the decision rendered by

the Co-ordinate Bench of the Tribunal in the case of ITO (Exemption) vs. Vaibhav Medical and Education Foundation in ITA No. 5494/Mum/2024, dt. 24-02-2025, wherein the Co-ordinate Bench has decided the issues in the context of section 13 of the Act applicable to charitable trusts/institutions. One of the questions that was examined by the co-ordinate bench was whether a daughter in law is a relative to the settlor of the Trust, who happened to be her mother in law. The Co-ordinate Bench held that the daughter in law is a relative to the settlor of the trust, who was her mother in law. The Ld.AR submitted that term “relative” has also been defined in Explanation-1 to sec. 13 of the Income tax Act and the said list contains identical terms “lineal descendant..... Spouse of lineal descendant...” Accordingly, the Ld.AR submitted that the above said decision supports the case of the assessee.

6. The Ld.DR, however, supported the orders passed by the tax authorities.

7. On hearing rival contentions and upon going through the Act, we find merit in the submissions made by Ld A.R. The son of the assessee is the lineal descendant and he will be a relative as per item (E) and as per item (G), his spouse will also fall under the category of relative. Hence the daughter-in-law would be covered by the definition of “Relative” as per Explanation(e) to sec. 56(2)(vii) of the Act. Accordingly, the gift received by the assessee from her daughter-in-law cannot be treated as income within the meaning of sec.56(2)(vii) of the Act. We notice that an identical view has been expressed by the co-ordinate bench in the case of Vaibhav Medical and Education Foundation (supra) in the context of sec.13 of the Act.

8. In view of the foregoing discussions, we set aside the order passed by the Ld.CIT(A) and direct the AO to delete the addition of Rs.6,11,000/- made by the AO u/s.56(2)(vii) of the Act.

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

Order pronounced in the open court on 07-03-2025

Sd/-
[SANDEEP GOSAIN]
JUDICIAL MEMBER

Sd/-
[B.R. BASKARAN]
ACCOUNTANT MEMBER

Mumbai,
Dated: 07-03-2025

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai