

| आयकर अपीलीय अधिकरण न्यायापीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, HON'BLE VICE PRESIDENT
&
SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER
I.T.A. No. 2281 & 2282/Mum/2023
Assessment Year: 2021-22

Ms. Rana Ayyub Shaikh 705, Sea Queen Avenue B Wing, Sector 14 Koparkhairane Navi Mumbai - 400709 [PAN: BMEPS7947H]	Vs	Deputy Commissioner of Income Tax (Central Circle) - 6(2), Mumbai
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

I.T.A. No. 2283/Mum/2023
Assessment Year: 2022-23

Ms. Rana Ayyub Shaikh 705, Sea Queen Avenue B Wing, Sector 14 Koparkhairane Navi Mumbai - 400709 [PAN: BMEPS7947H]	Vs	Deputy Commissioner of Income Tax (Central Circle) - 6(2), Mumbai
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)

Assessee by :	Shri P.J. Pardiwala & Ms. Ritu Punjabi, A/Rs
Revenue by :	Shri Ashok Kumar Ambastha, Sr. D/R

सुनवाई की तारीख/**Date of Hearing** : 29/04/2025
घोषणा की तारीख /**Date of Pronouncement**: 02/05/2025

आदेश/ORDER

PER NARENDRA KUMAR BILLAIYA, AM:

I.T.A. No. 2281 & I.T.A. No. 2282/Mum/2023 & I.T.A. No. 2283/Mum/2023 are three separate appeals by the assessee preferred against the order of the Id. CIT(A) - 54, Mumbai dated

27/04/2023, [hereinafter 'the Id. CIT(A)'] pertaining to AYs 2021-22 & 20 respectively.

2. The captioned appeals were heard together and are disposed off by this common order for the sake of convenience and brevity.

3. Facts of ITA No. 2282/Mum/2023 was argued before us, therefore, we adjudicate the same.

4. The solitary ground raised by the assessee is that the Id. CIT(A) was not justified in confirming the view of the AO that the donations of Rs. 1,94,82,506/- received for Covid relief were taxable as the income of the assessee u/s 56(2)(x) of the Act.

5. By way of an additional ground of appeal, the assessee has challenged the validity of the order u/s 175 of the Act claiming that the same deserves to be quashed. Since this additional ground goes to the root of the matter, the same is addressed first.

6. Representatives of both the sides were heard at length, case records carefully perused and the judicial decisions referred to and relied upon duly considered.

7. Briefly stated the facts of the case are that the assessee is a journalist and a columnist for the Washington Post newspaper. The AO was in the know of a complaint against the assessee with regard to the donation fund she raised in three separate campaigns in Ketto platform. The complaint was investigated by the investigation wing and a report was submitted which included the following:-

"a. Ms. Rana Ayyub (the assessee) has received a total of Rs. 2,69,50,695/- as donations through 3 donation campaigns started on the platform "ketto".

b. Out of the same, Rs. 80,49,856/- have been received in foreign currency.

c. The money was received in her father's and sister's account as well. When asked for the reasons for the same, the assessee stated that she couldn't find a copy of her PAN card and hence used her father and sister's PAN card for withdrawal.

d. From her father and sister's account, part of the said money was transferred to the bank account of the assessee.

e. Although the assessee stated that roughly 60-70 lac rupees were spent for relief work, the analysis of the relevant bank statements/credit card expenditure shows that the amount spent on relief work is much smaller, i.e. only to the tune of Rs. 28 lacs.

f. A sum of Rs. 50 lacs has been diverted to an FD A/c of the assessee.

g. Roughly Rs. 19 lacs have been spent on her personal expenses.

h. A large portion of money is still lying unspent in assessee's own bank account and also her father's account. It was claimed by the assessee before the investigation wing, that it was kept for construction of a hospital. However, there is no such mention of this project in the fundraiser on ketto platform.

i. As a journalist, the assessee is not allowed to collect donations from foreign sources as defined in the Foreign Contribution Regulation Act, 2010.

j. After a summons was issued by the DDIT, the assessee returned almost Rs. 70 lacs of money received in foreign currency from the third campaign on ketto platform. The money was returned from the ketto platform itself and was not withdrawn into any bank account of the assessee or her family members.

k. The assessee is also receiving substantial money from foreign sources for her journalism work, namely from a USA company named Substack with whom the assessee has entered into an agreement."

8. The assessee raised donations from three campaigns on Ketto platform. The total donations received from Ketto platform in three campaigns are as under:-

	in Rs.			
Money Raised (Net of PG Charges)	Campaign 1	Campaign 2	Campaign 3	Total
INR	68,48,560	40,52,640	79,63,640	1,89,00,840
Foreign Currency (in Approx. Rs.)	54,27,924	26,21,932		80,49,856
Total	1,23,12,484	66,74,571	79,63,640	2,69,50,695

8.1. From the Ketto platform, the assessee withdrew the amount in her or her family member as under:-

in Rs.

<i>Total Withdrawal</i>	<i>Campaign 1</i>	<i>Campaign 2</i>	<i>Campaign 3</i>	<i>Total</i>
<i>Mohammed Ayyub Shaikh</i>	85,92,063	66,74,082	7,61,677	1,60,27,822
<i>Iffat Shaikh</i>	37,15,071	-	-	37,15,071
<i>Rana Ayyub Shaikh</i>	-	-	72,01,786	72,01,786
<i>Total</i>	<i>1,23,07,134</i>	<i>66,74,082</i>	<i>79,63,463</i>	<i>2,69,44,679</i>

8.2. It would be pertinent to mention here that Mohammed Ayyub Shaikh is the father of the assessee and Iffat Shaikh is the sister of the assessee. A substantial amount of donations were transferred from her father and sister's accounts to the account of the assessee as under:-

in Rs.

<i>Transfers</i>	<i>Total Receipt</i>	<i>Transfer to Rana</i>	<i>Transfer in</i>	<i>Net Receipt</i>
<i>Mohammed Ayyub Shaikh</i>	1,60,27,822	-84,40,000		75,87,822
<i>Iffat Shaikh</i>	37,15,071	-36,40,000		75,071
<i>Rana Ayyub Shaikh</i>	72,01,786		1,20,80,000	1,92,81,786
<i>Total</i>	<i>2,69,44,679</i>	<i>-1,20,80,000</i>	<i>1,20,80,000</i>	<i>2,69,44,679</i>

8.3. The AO found that in spite of time spent of more than one year from the first campaign, the assessee has unutilized funds of approximately Rs. 2.4 Crores, for which no separate accounts were maintained which makes it not possible to segregate funds used from each campaign. The account in which the money was withdrawn by the assessee or her family members were personal savings account. Moreover, instead of carrying out any relief work, the assessee opened a new current account and made investment of a fixed deposit in her name and also incurred personal expenditure from the same savings account in which the funds were received.

8.4. Looking to the peculiar facts, the AO invoked the provision of Section 175 of the Act and issued notice on 29/07/2021.

9. The Id. Counsel has vehemently argued for the invocation of provisions of Section 175 of the Act claiming that, while framing the assessment by invoking of provisions of Section 175 of the Act, the AO has charged income from 01/04/2020 to 31/03/2021 which is not permissible as per provisions of Section 175 of the Act. It is the say of the Id. Counsel for the assessee that at the most, the AO should have taxed income from 31/03/2021 to 29/07/2021 only. The Id. Counsel further stated that before invoking the provisions of Section 175 of the Act, the AO should have satisfied that the assessee is likely to charge, sell, transfer, dispose off or otherwise part with any of his assets with a view to avoid any liability under the provisions of this Act. Only after satisfying such conditions, the total income of the assessee for the period from the expiry of the previous year for that assessment year to the date when the AO commences the proceedings under this Section, shall be chargeable to tax i.e., 31/03/2021 to 29/07/2021 only.

10. We have given a thoughtful consideration to the submissions made by the Id. Counsel for the assessee. The provisions of Section 175 of the Act read as under:-

“175. Notwithstanding anything contained in section 4, if it appears to the [Assessing] Officer during any current assessment year that any person is likely to charge, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act, the total income of such person for the period from the expiry of the previous year for that assessment year to the date when the [Assessing] Officer commences proceedings under this section shall be chargeable to tax in that assessment year, and the provisions of sub-sections (2), (3), (4), (5) and (6) of section 174 shall, so far as may be, apply to any proceedings in the case of any such person as they apply in the case of persons leaving India.”

10.1. It can be seen from the above that Section 175 of the Act has to be read and considered in the light of the provisions of sub-sections (2), (3), (4), (5) and (6) of section 174 of the Act, which read as under:-

“Assessment of persons leaving India.

174. (1) Notwithstanding anything contained in [section 4](#), when it appears to the [Assessing] Officer that any individual may leave India during the current assessment year or shortly after its expiry and that he has no present intention of returning to India, the total income of such individual for the period from the expiry of the previous year for that assessment year up to the probable date of his departure from India shall be chargeable to tax in that assessment year.

(2) The total income of each completed previous year or part of any previous year included in such period shall be chargeable to tax at the rate or rates in force in that assessment year, and separate assessments shall be made in respect of each such completed previous year or part of any previous year.

(3) The [Assessing] Officer may estimate the income of such individual for such period or any part thereof, where it cannot be readily determined in the manner provided in this Act.

(4) For the purpose of making an assessment under sub-section (1), the [Assessing] Officer may serve a notice upon such individual requiring him to furnish within such time, not being less than seven days, as may be specified in the notice, a return in the same form and verified in the same manner [as a return under clause (i) of sub-section (1) of [section 142](#)], setting forth his total income for each completed previous year comprised in the period referred to in sub-section (1) and his estimated total income for any part of the previous year comprised in that period; and the provisions of this Act shall, so far as may be, and subject to the provisions of this section, apply as if the notice were a [notice issued under clause (i) of sub-section (1) of [section 142](#)].

(5) The tax chargeable under this section shall be in addition to the tax, if any, chargeable under any other provision of this Act.

(6) Where the provisions of sub-section (1) are applicable, any notice issued by the [Assessing] Officer under [clause (i) of sub-section (1) of [section 142](#) or] [section 148](#) in respect of any tax chargeable under any other provision of this Act may, notwithstanding anything contained in [clause (i) of sub-section (1) of [section 142](#) or] [section 148](#), as the case may be, require the

furnishing of the return by such individual within such period, not being less than seven days, as the [Assessing] Officer may think proper."

[emphasis ours]

11. In light of the aforementioned relevant provisions of the Act, facts on record show that the assessee has not maintained separate accounts for donations funds and personal funds. All funds from the donation including those in foreign currency have been transferred to the personal accounts of the assessee and her family members. In fact, the assessee showed her ignorance to the taxability to the donation received by Ketto. The assessee made a representation before the CBDT in connection with the taxability of funds received as donation for Covid relief but facts on record show that this action of the assessee was taken only after the Revenue sent her a summon u/s 131 of the Act for enquiry in this matter. The representation was made on 01/07/2021 whereas the first summon was issued on 15/06/2021. Moreover, this act of the assessee goes on to show that she was aware that as on date such funds received are taxable in her hands. Throughout the proceedings, the assessee took a stand that she is not a beneficiary of those funds but the same cannot be exhibited because the funds have been mixed up with her personal funds as no separate account was maintained. The stand of the assessee that, in case of Ketto, the beneficiary is clearly identified by Ketto to whom the funds are to be transferred, is also not acceptable as the funds have been transferred in the personal account of the assessee, her father and her sister. When the assessee was cornered by the Tax Department, she offered the entire donations raised from Ketto platform as "income from other sources".

12. Considering the facts of the case in totality, keeping in mind the transfer of funds, we have no hesitation to hold that provisions of Section 175 r.w. provisions of sub-sections (2), (3), (4), (5) and (6) of section 174 of the Act, squarely apply in case of the assessee and there is no error or infirmity in invoking the same by the AO and as confirmed by the Id. CIT(A). The additional ground raised by the assessee is accordingly dismissed.

13. On merits of the case, the Id. Counsel for the assessee vehemently argued that provisions of Section 56(2)(x) of the Act do not apply on the facts of the case. Strong reliance was placed on the decisions of the Hon'ble Supreme Court in the cases of *CIT vs. Bijli Cotton Mills (P) Ltd.* reported in [1979] 116 ITR 60 (SC) and *CIT vs. Tollygunge Club Ltd.* [1977] 107 ITR 776 (SC). Further reliance was placed on the decisions of the Co-ordinate Bench of the ITAT, Mumbai in the cases of *Six Continent Hotels Inc. vs. DCIT* [2024] 159 taxmann.com 533 (Mumbai-Trib.) and *Chandrakant H. Shah vs. ITO* [2009] 124 ITD 177 (Mumbai).

14. Provisions of Section 56(2)(x) of the Act read as under:-

Income from other sources.

56. (1)

.....

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes, shall be chargeable to income-tax under the head "Income from other sources", namely : -

(x) where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017, -

(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

- (b) any immovable property, –
- (A) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;
- ⁵⁹[(B) for a consideration, the stamp duty value of such property as exceeds such consideration, if the amount of such excess is more than the higher of the following amounts, namely: –
- (i) the amount of fifty thousand rupees; and
- (ii) the amount equal to ⁶⁰[ten] per cent of the consideration:]

Provided that where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be taken for the purposes of this sub-clause :

Provided further that the provisions of the first proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account ⁶¹[or through such other electronic mode as may be prescribed⁶²], on or before the date of agreement for transfer of such immovable property:

Provided also that where the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (2) of [section 50C](#), the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of [section 50C](#) and sub-section (15) of [section 155](#) shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections:

⁶³[**Provided also** that in case of property being referred to in the second proviso to sub-section (1) of [section 43CA](#), the provisions of sub-item (ii) of item (B) shall have effect as if for the words "ten per cent", the words "twenty per cent" had been substituted;]

- (c) any property, other than immovable property, –
- (A) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;
- (B) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration :

Provided that this clause shall not apply to any sum of money or any property received –

- (I) from any relative; or
- (II) on the occasion of the marriage of the individual; or

- (III) *under a will or by way of inheritance; or*
- (IV) *in contemplation of death of the payer or donor, as the case may be; or*
- (V) *from any local authority as defined in the Explanation to clause (20) of [section 10](#); or*
- (VI) *from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of [section 10](#); or*
- (VII) *from or by any trust or institution registered under [64](#)[section 12A or [section 12AA](#) or [section 12AB](#)]; or*
- (VIII) *by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of [section 10](#); or*
- (IX) *by way of transaction not regarded as transfer under clause (i) or [65](#)[clause (iv) or clause (v) or] clause (vi) or clause (via) or clause (viaa) or clause (vib) or clause (vic) or clause (vica) or clause (vich) or clause (vid) or clause (vii) [66](#)[or clause (viiac) or clause (viiad) or clause (viiæ) or clause (viiæf)] of [section 47](#); or*
- (X) *from an individual by a trust created or established solely for the benefit of relative of the individual;**
- [67](#)[(XI) *from such class of persons and subject to such conditions, as may be prescribed*[68](#);]*
- [69](#)
[(XII) *by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, for any illness related to COVID-19 subject to such conditions*[70](#), as the Central Government may, by notification in the Official Gazette, specify in this behalf; *
- (XIII) *by a member of the family of a deceased person, –*
 - (A) *from the employer of the deceased person; or*
 - (B) *from any other person or persons to the extent that such sum or aggregate of such sums does not exceed ten lakh rupees,*
where the cause of death of such person is illness related to COVID-19 and the payment is –
 - (i) *received within twelve months from the date of death of such person; and*
 - (ii) *subject to such other conditions*[70](#), as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation. – For the purposes of clauses (XII) and (XIII) of this proviso, "family", in relation to an individual, shall have the same meaning as assigned to it in Explanation 1 to clause (5) of [section 10](#).]

71[**Provided further** that clauses (VI) and (VII) of the first proviso shall not apply where any sum of money or any property has been received by any person referred to in sub-section (3) of [section 13](#).]

72[Explanation. – For the purposes of this clause, –

- (a) the expressions "assessable", "fair market value", "jewellery", "relative" and "stamp duty value" shall have the same meanings as respectively assigned to them in the Explanation to clause (vii); and
- (b) the expression "property" shall have the same meaning as assigned to it in clause (d) of the Explanation to clause (vii) and shall include virtual digital asset;]]"

15. As mentioned elsewhere, the assessee has raised donations from three campaigns on Ketto platform without maintaining separate account and all the sums of money exceeded Rs.50,000/- and all the money received were without any consideration. In our considered view, such donation receipts received in personal account with no liability to return, makes them taxable u/s 56(2)(x) of the Act. Though the assessee has stated in her statement u/s 133 of the Act recorded on 01/07/2021 before the investigation wing that part of the amount was spent in sending migrant workers home and some part was used for ration, hospitalization, procuring transportation, procuring tarpaulin sheets for those who were affected in floods in West Bengal. Further it was mentioned that no separate accounts were maintained and no documentary evidence were furnished by the assessee. If the intention of the assessee was pious then, what explanation she could offer for purchasing fixed deposit receipts of Rs.50,00,000/- in her personal name. From the first campaign, the assessee raised Rs. 1,23,12,484/- out of which Rs.68,84,560/- was in Indian currency and Rs.54,27,924/- in foreign currency converted into INR. When the assessee realised that she has been cornered in the tax net, she returned funds received from

foreign reserves from Ketto platform but even after the passage of almost one year from the first donation campaign in which the assessee garnered Rs.1.23 Crores approximately, she could only produce evidence of Rs.18,00,000/- of relief expenditure. When confronted with this, the assessee took a plea that the same has been kept in reserve for constructing a hospital which was never mentioned during the fund-raising campaign.

16. It would be pertinent to mention here that donations in foreign currency are covered by Foreign Contribution (Regulation) Act, 2010, in which Section 3(1)(h) provides that no foreign contribution shall be accepted by any correspondents, columnists, cartoonists, editors, owners, printers, or publishers of associations or companies, referred to in Clause (g). Since the assessee is herself a journalist, it is clear that the as per the Foreign Contribution (Regulation) Act, 2010, she could not have received foreign contribution directly in her account. Therefore, she withdrew the amounts from Ketto platform in the accounts of her father and sister from where she had transferred it to her account. The assessee has not spent the money received for the purpose for which such funds were received but diverted the same for other purposes.

17. Considering the facts in totality, we are of the considered view that the donations collected were not just for Covid relief but also for other so-called purposes like funds for slum dwellers and farmers as also for relief work in different states for different purposes. But all the donations collected were parked in the savings bank account of the assessee and family members and no separate accounts were maintained. The funds were also used for personal purposes and also

for investment in FDR and substantial amount of donation received remained un-utilized in spite of long time gap. The claim that the end use of these funds was initiated for charitable activities remains unproved. The manner in which the funds were collected, is also not understandable as the donations were collected and parked in the bank accounts of the relatives of the assessee. On the given facts, the donations collected by the assessee are taxable u/s 56(2)(x) of the Act and orders of the authorities below on this count cannot be faulted with.

18. All the decisions relied upon by the Id. Counsel for the assessee are mis-placed and not relevant to the facts of the case in hand.

18.1. In the case of *Bijli Cotton Mills (P.) Ltd. (supra)*, the assessee used to realize a specified amount on account of *dharmada* for its customers on sales of yarn and bales of cotton and credited the amount in a separate account known as *dharmada* account and not in its trading account. Thus, the assessee was maintaining a separate account.

18.2. In the case of *Tollygunge Club Ltd. (supra)*, the surcharge was undoubtedly a payment which a race-goer was required to make in addition to the price of the admission ticket if he wanted to witness the race from the club enclosure but on that count, it did not become part of the price of admission. The surcharge being impressed with an obligation in nature of trust for being applied to local charities was diverted before it became a part of the income of the assessee.

18.3. Such are not the facts of the case in hand as the donations received by the assessee were parked in her personal account and account of her father and her sister.

18.4. Similar are the facts in the case of *Six Continent Hotels Inc. vs. DCIT (supra)* and *Chandrakant H. Shah vs. ITO (supra)*, which are clearly distinguishable.

19. In light of the above discussion, appeal of the assessee stands dismissed. Resultantly, I.T.A. No. 2281 /Mum/2023 & I.T.A. No. 2283/Mum/2023 become infructuous.

20. In the result, appeals filed by the assessee are dismissed.

Order pronounced in the Court on 2nd May, 2025 at Mumbai.

Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT

Sd/-
(NARENDRA KUMAR BILLAIYA)
ACCOUNTANT MEMBER

Mumbai, Dated 02/05/2025
Sd/-

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER
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Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai