

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA

**BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI PRADIP KUMAR CHOUBEY, JM**

**ITA No. 727/KOL/2025
(Assessment Year:2017-18)**

DCIT, CC-4(4), Kolkata
DCIT, Central Circle-4(4),
Aaykar Bhawan Poorva
5th Floor, Room No.509, 110,
Shanti pally, Kolkata-700107,
West Bengal

(Appellant)

PAN No. ADOPB6894Q

Vs.

Mira Bibi
W/o Jakir Hossain, College Para
Aurangabad, Jangipur,
Murshidabad, PIN-742201,
West Bengal

(Respondent)

Assessee by : Shri Rajesh Kumar Mishra &
Ms. Anupam Kumar Dey, AR
Revenue by : Shri S.B. Chakraborty, DR

Date of hearing: 21.11.2025
Date of pronouncement: 20.01.2026

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the Revenue against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Ld. CIT(A)") dated 27.12.2024 for the AY 2017-18.

2. The only issue raised by the Revenue is against the order of Id. CIT (A) deleting the addition of ₹1,21,00,000/- as made by the Id. AO u/s 68 of the Act in respect of cash gifts received from donors by treating the same as unexplained cash credit u/s 68 of the Act.

3. The facts in brief are that the case of the assessee was reopened u/s 148 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") vide notice dated 31.03.2021, by ITO Ward 42(1), on the ground that the assessee has made huge cash deposits and withdrawals during the year which were not matching with the return of income filed. During the course of assessment proceedings, the Id. AO issued notice u/s 143(2) and 142(1) of the Income-tax Act, 1961 (the Act) along with questionnaire. The Id. AO noted that though the assessee has filed the return u/s 139(1) of the Act for the impugned assessment year, however, various cash deposits and withdrawals in multiple bank accounts were not reflected. The assessee filed the return of income on 23.04.2021 in compliance to notice u/s 148 of the Act. Thereafter, the Id. AO noted that the assessee has received gifts of ₹75 lacs from Mojibur Rahaman Biswas and ₹46 lacs from Latifuddin and documentary evidences furnished by the assessee were also examined. The Id. AO also referred to the confirmation issued by Mojibur Rahaman Biswas dated 21.02.2022, wherein the person confirmed the gift given to the assessee on various dates out of the explained sources. It was also submitted that the said donor has sufficient resources as he was having manufacturing business as well acting as director/ partners in many firms and companies. Similarly, the Id. AO referred to the confirmation of gift dated 21.02.2022, given by Shri Latifuddin who also stated that he has a proprietor of a manufacturing concerns as well as contractor/ partner of several firms. The Id. AO noted that since the assessee has received gifts in cash and failed to furnish the gift deeds and therefore, treated the said amount of gifts received as unexplained cash credit u/s 68 read with section 115BBE of the Act and added to the income of the assessee.

4. In the appellate proceedings, the Id. CIT (A) allowed the appeal of the assessee by observing and holding as under:-

"5.2.1. I have gone through the assessment order as well as the submission of the assessee. On examining the same, it is noticed that during the year under consideration, the assessee had received two cash gifts from two persons namely Mr. Mojibur Rahaman Biswas & Mr. Latifuddin of Rs.75,00,000/- and Rs.46,00,000/-, totaling to Rs.1,21,00,000/-, who are own brothers-in-law of the assessee. During the asst. proceedings, the AO had asked the assessee to prove the genuineness and source of such cash gift. It is noticed that the assessee had furnished all the relevant details and documents in respect of such cash gift during the asst. proceedings viz. confirmations from the donors, their financial statements, copy of ITRs of these persons, PANs, Registered addresses, balance sheets reflecting such gifts to the assessee etc. However, it is also observed that the assessee had not provided gift deed to the AO. On the basis of the same, the AO is found to be opined that the cash gift of Rs.1,21,00,000/- as bogus and the assessee's own money. Hence, the said amount was added back to the total income of the assessee u/s 68 of the Act.

5.2.2. In the Income Tax Act, 1961, the section deals with taxability of gifts is section 56(2). More specifically, if the gift was given in the period 01.10.2009 to 31.03.2017, the striking section is 56(2)(vii). Hence, there is a need to mention the relevant portion of the said section:

"(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 :—

.....

(vii) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009 but before 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;

.....

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

(a) from any relative; or

(b) on the occasion of the marriage of the individual; or

(c) under a will or by way of inheritance; or

.....

Explanation.—For the purposes of this clause,—

.....

(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;

....."

5.2.3. Hence, on perusal of the above section, gift received from the brothers-in-law are completely exempted in the hands of any individual. However, it is observed that in spite of adhering the section 56(2)(vii) of the Act, the AO had charged section 68 of the Act on the cash gift money received by the assessee. It is pertinent to mention that the above amount of Rs.1,21,00,000/- received by the assessee is not loans or any kind of borrowings or of other natures. It is a cash gift given by the relatives of the assessee on different occasions to the assessee individual. Further, on perusal of the balance sheet submitted by the assessee in respect of the two donors (supra), it is observed that the same gift is well recorded in it. Hence, there should be no doubt of the facts that, the above-mentioned amounts represented the cash gifts received by the assessee and accepted by her from her own brothers-in-laws and the gifts were made by the above-mentioned Donors respectively to their sister-in law's hand out of love and affection and on own volition.

5.2.4. It is evident from the asst. order that the AO did not raise any doubt regarding the genuineness of such gifts, he only doubted the same on account of non-production of giftdeeds. It is observed that the assessee had submitted the confirmations of cash gifts as received by the Donors. They had also filed the copy of ledger account in support of the source of the above-mentioned gifts. Moreover, the assessee, both in the asst. proceedings and also in the appellate proceedings, in course of the re-assessment proceedings submitted the copy of income tax returns and copy of computation of income of the above-mentioned Donors. On perusal of the same, it is noticed that, both the Donors, Mojibur Rahaman Biswas and Latifuddin were regular Income Tax return filers and assessed to Income tax. It is also observed from the computation of income

of the Donors as filed and incorporated in the impugned assessment order that the incomes earned by the said Donors were Rs.83,98,375/- & Rs.80,81,830/- i.e., more than Rs.80 lacs for the subjected AY and their nature of income and the quantum of income established the facts that, both the Donors were having capacity to make gifts to the tune of Rs. 75,00,000/- and Rs.40,00,000/- respectively. On perusal of the submitted balance sheets of the two donors for the year ended 31/03/2017, it is tangible that both the Donors had enough financial capacity to make gifts to the assessee. From the said balance sheet, it is also clear that both the Donors made the drawings from their capital generated over the years and the gifts were made out of their accumulated funds and drawings.

5.2.5. Reliance is placed by the assessee on the following judicial pronouncements in support of her contentions:

a) In the case of 'Commissioner of Income Tax Vs. Sanjeev Jain [2023] 150 taxmann.com 487 (Cal)', the Hon'ble High Court, Calcutta held the following:

"The short issue which falls for consideration in this appeal is whether the assessee was able to establish the genuineness of the gift received by the assessee. In the earlier round of litigation the learned Tribunal had remanded the matter to the Assessing Officer with a specific direction to consider the documents filed by the assessee which, according to the assessee, is sufficient to show that they have discharged the initial burden of proof on them to show that the gift was genuine. The learned Tribunal notes that the Assessing Officer on remand did not comment upon the documents which were produced before the Tribunal but proceeded to find fault with the assessee on the ground that the return of income of the donor Jatin Mehta was not produced. Therefore, the learned Tribunal was of the view that the revenue has not made out any case for interfering with the order passed by the Commissioner of Income Tax-XX, Kolkata [CIT(A)] dated 19th February, 2010.

Mr. Amit Sharma, learned standing counsel for the appellant, would vehemently contend that the bonafides and genuineness of the gift have not been established and the Court should take into consideration the relationship of the parties which will clearly show that there is no genuinity in the gifts.

The CIT(A) considered the specific issue as to whether the assessee has been able to establish the identity and creditworthiness of the donor. The CIT(A) in his order dated 19th February, 2010 records the fact that the donor had a NRE account in ING Vysya Bank and the said Bank directly addressed to the Assessing Officer confirming about the NRE account maintained by the donor and a cheque for Rs.25 Lacs in favour of the assessee was debited to the NRE account. The CIT(A) also notes that the assessee has furnished his business details directly to the Assessing Officer and on the other hand, the Assessing Officer has failed to bring any positive material on record to show that the gifts are not genuine and there was no material brought on record by the revenue to suggest any nexus between the assessee and the gift received by his wife. Thus, on appreciation of the facts the CIT(A) allowed the appeal.

The learned Tribunal on its part re-appreciated the factual position and noted that the identity of the donor has been well established by the documents produced and thus the

assessee has discharged the initial onus cast upon the assessee to establish the identity, genuineness as well as the creditworthiness of the donor. In such circumstances, the burden shifts on the revenue to establish it otherwise. This having not been done by the revenue, we are of the view that the CIT(A) as well as the Tribunal rightly granted relief in favour of the assessee.

In the result, the appeal is dismissed and the substantial questions of law are answered against the revenue.

b) Further, the Hon'ble ITAT, Delhi in a recent case of 'Sharon Agarwal Vs. ITO, Ward-2(3), New Delhi ITA No.299/Del/2023' had held as under:

4. The Assessing Officer made addition of Rs.12,78,000/- on account of the cash deposits over a period of 14 days from 18.04.2016 to 18.11.2016 of the amounts varying from Rs.25,000/- to Rs.4,00,000/-. Before the AO, it was submitted that the amount has been received as gift from the mother (aged 70 yrs.) of the assessee and out of self accumulations. During the proceedings before the Id. CIT(A), the assessee has also submitted copy of the gift deed dated 14.01.2014. We find that the gift deed has not been disputed by the revenue. The fact of acceptance of the gift has also not been controverted by the Id. CIT(A). In the absence of any contrary material brought before us by the revenue, we hereby direct that the addition made by the Assessing Officer be deleted.

5. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 18/05/2023."

c) The Hon'ble ITAT, Jaipur in the case of 'Sheela Yogi vs. ITO, Ward-4(2), Jaipur, ITA No.398/JP/2018' had held as under:

"15. Further, on merits, we find that once the summons have been issued and these persons have appeared and given their statements before the AO wherein they have confirmed that they have advanced the amount to the assessee towards purchase of the agricultural land and has also disclosed the source of their earnings/savings, the assessee has discharged the necessary onus cast on her in terms of identity, creditworthiness and genuineness of the transactions in the facts and circumstances of the present case. Similar is the position regarding receipt of gifts from father and father-in-law which is duly supported by the respective gift deeds, the contents and authenticity of which are not in dispute."

5.2.6. Hence, in view of the aforesaid judicial pronouncements as well as the discussions held above, it can be inferred that where the donors (supra) had confirmed the gifts so made by them and the source of the same gift was corroborated by their computation of income, balance sheets and other financial documentary proofs, the assessee had discharged her onus of proving the three limbs of section 68 of the Act viz. identity, genuineness and creditworthiness of the donors. Hence, addition of the gift amount u/s 68 of the Act is not acceptable. Further, as the gift was received from the relatives (as defined u/s 56(2)(vii) of the Act), it is also not taxable in the hands of the assessee u/s

56(2)(vii) of the Act. Hence, the addition of Rs.1,21,00,000/- is liable to be deleted. Consequently, these grounds raised by the assessee are allowed."

5. After hearing the rival contentions and perusing the materials available on record, we find that the assessee has received two gifts in cash on various dates from two persons namely; Mojibur Rahaman Biswas & Latifuddin, who were brothers in law of the assessee. We note that during the course of assessment proceedings, the assessee furnished before the Id. AO confirmations from the donors, their financial statements, ITRs, registered addresses, balance sheets reflecting such gifts to the assessee. The Id. CIT (A) noted that gifts received from the relatives were completely exempt in the hands of the individual/ assessee and noted that the Id. AO has wrongly made the addition u/s 68 of the Act. The Id. CIT (A) thereafter noted that the gifts were duly confirmed by the donors and were appearing in their respective balance sheets and also that they have sufficient resources to make gifts to the assessee. The Id. CIT (A) also noted that both the donors were regularly filling their returns of income. It was observed that the income as per their returns of income were ₹83,98,375/- & ₹80,81,830/-, respectively. The Id. CIT (A) therefore concluded that the donors had made the gift of money which were out of explained sources as these were fully shown in their books of accounts. It was also noted that the donors were the persons of sufficient means. The Id CIT(A) while allowing the appeal of the assessee relied on the decisions of Hon'ble Calcutta High Court in the case of CIT Vs. Sanjeev Jain [2023] 150 taxmann.com 487 (Cal) and Hon'ble ITAT, Delhi in ITA No.299/Del/2023 in the case of Sharon Agarwal Vs. ITO, Ward-2(3), New Delhi and the Hon'ble ITAT, Jaipur in ITA No.398/JP/2018 in the case of Sheela Yogi Vs. ITO, Ward-4(2), Jaipur. Finally, Id CIT(A) deleted the addition by recording a finding a fact that the gifts were

corroborated by the sources of income in the hands of the donors and therefore, assessee has fully discharged the onus of proving the three limbs of section 68 of the Act i.e. identity, genuineness and creditworthiness of the donors. Further, the Id. CIT (A) noted that the gifts received from the relatives {as defined u/s 56(2)(vii) of the Act} are not taxable in the hands of the assessee u/s 56(2)(vii) of the Act and accordingly, deleted the addition. Considering these facts on record and finding of Id. CIT (A), we are inclined to uphold the order of Id. CIT (A) as we do not find any infirmity in the order of the Id. CIT (A) by dismissing the appeal of the revenue.

6. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 20.01.2026.

Sd/-
(PRADIP KUMAR CHOUBEY)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 20.01.2026

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

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

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Kolkata