

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISA KHAPATNAM "SMC" BENCH, VISA KHAPATNAM**

(HYBRID HEARING)

**श्री रवीश सूद, न्यायिक सदस्य
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

**आयकर अपीलसं./I.T.A.No.619/VIZ/2025
(निर्धारण वर्ष/ Assessment Year:2013-14)**

Manoharmal 27-37-162, MG Road Two Town, Vijayawada – 520002 Andhra Pradesh [PAN: AIDPM4411A]	Vs.	Income Tax Officer, Ward-2(1) C.R. Building, MG Road Vijayawada - 520002
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri Suresh Kumar Jain, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri K. Prasad, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	10.02.2026
घोषणा की तारीख/Date of Pronouncement	:	10.02.2026

आदेश /ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 28.08.2025, which in turn arises from the order passed by the Assessing Officer (for short, "A.O") under section 147 r.w.s. 144 r.w.s 144B of the Income-Tax Act, 1961

(for short, “the Act”), dated 15.09.2021 for the Assessment Year 2013-14. The assessee has assailed the impugned order on the following grounds of appeal:

“1. The Assessing Officer, Ward-2(1), Vijayawada has added gift received from assessee daughter Neelam on 19-07-2012 of Rs.16,40,000/- and levied tax under section 115BBE of the I.T. Act. Neelam was income tax assessee and both the assessee and his daughter Neelam were assessed to income tax in the same ward. The source of gift received by done is clearly explained by way of documentary evidences of gift deed and debited the same in the capital account of donor his daughter Neelam. The copy of the return of income and including its Acknowledgement, Computation of Total Income, Personal Capital Account and Balance Sheet of the donor Neelam is enclosed herewith.

2. During assessment proceeding the assessee has filed the capital account and balance sheet of his daughter Neelam in which the gift given was debited to her account. The copy of cash flow statement of the assessee and gift deed of his daughter Neelam was also submitted at the time of assessment proceedings. During appeal proceeding the assessee has filed the Notary Affidavit of assessee daughter Neelam also. Both the Assessing Officer and C.I.T. (Appeals), NFAC, Delhi have not considered the submission of the assessee. The copy of the Gift Deed of Donor and Notary Affidavit of Donor is enclosed herewith.

3. The assessee and his daughter Neelam have filed the replies but they were not considered by the assessing officer during the assessment proceedings. The reply was filed on 08/09/2021 by the donor Neelam before passing the assessment order on 15/09/2021 by the Assessing Officer. The copy of the letter filed by the donor Neelam and its Acknowledgement is enclosed herewith. The C.I.T. (Appeals), NFAC, Delhi has also wrongly stated that the assessee has failed to explain satisfactorily the source of gift received. The assessee prays your honour to delete the addition made of Rs.16,40,000/-under section 68 of the I.T. Act of gift received from his daughter Neelam as the source of gift received was clearly explained.”

2. Succinctly stated, the assessee had filed his original return of income for the A.Y. 2013-14, declaring an income of Rs. 4,51,910/-. Subsequently, the case of the assessee was reopened under section 147 of the Act on the ground of “*Cash gift received from the daughter to purchase a property*”. Notice under section 148 of the Act, dated 19.03.2021, was issued and duly served upon the assessee. In

compliance, the assessee filed his return of income declaring an income of Rs.4,51,910/-, i.e., as was originally returned.

3. During the course of the assessment proceedings, the AO, *inter alia*, observed that the assessee had, during the subject year, made an investment for the purchase of an immovable property for a consideration of Rs. 1,48,85,000/- on which he had further paid a stamp duty/other charges of Rs. 11,18,998/-. The AO observed that the assessee's 1/6th share of investment in the aforesaid purchase transaction worked out at Rs.26,67,333/-. On being queried about the source of the investment made towards the purchase of the subject property, it was submitted by the assessee that the same was, *inter alia*, sourced from a cash gift of Rs. 16,40,000/- that he had received from his daughter Smt. Neelam Kumari. The assessee, to substantiate the veracity of his aforesaid claim, had placed on record a copy of the gift deed. The AO to verify the genuineness of the gift transaction issued a notice under section 133(6) of the Act to Smt. Neelam Kumari (*supra*), wherein she was called upon to explain the source from which she had claimed to have gifted the subject amount to her father, but no reply was received from her end. The AO, thereafter, called upon the assessee to explain the source of the cash from where his daughter had made the cash gift to him. As the assessee failed to come forth with any reply, therefore, the AO, observing that there was no credible proof of a genuine gift transaction, held the entire amount as an unexplained cash credit under section 68 of the Act. The AO based on his aforesaid deliberations vide his order passed under section 147 r.w.s 144 r.ws. 144B of the Act, dated 15.09.2021, determined the income of the assessee at Rs. 20,91,910/-.

4. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success. For the sake of clarity, I deem it apposite to cull out the observations of the CIT(A), who had summarily endorsed the view taken by the A.O, observing as under:

“6.3 The facts of the case of the appellant are that the AO made addition of Rs. 16,40,000/- in respect of gift received from his daughter, Neelam Kumari. The AO made addition in absence of any reply from the assessee as well as Neelam Kumari.

During the appellate proceeding, the appellant has submitted that the gift was received from daughter, a close relative, therefore, it is not taxable. During assessment proceeding the appellant stated to have submitted an affidavit of Neelam Kumari. The appellant did not provide any documentary evidences relating to explain the source of gift given by Neelam Kumari.

It is fact that the gift was received by the appellant from daughter, Neelam Kumari in cash. Therefore, it was for the appellant to explain the source of gift received from Neelam Kumari. The appellant has failed to explain satisfactorily the source of gift received by the appellant from Neelam Kumari. In absence of satisfactory explanation of source of the gift, provisions of section 68 are applicable in the case of the appellant. Thus, the addition of Rs.16,40,000/- made by the AO u/s.68 is upheld.

Accordingly, ground no. 2 to 4 of the appeal are dismissed.

7. Ground no. 5 is regarding addition, amendment, alteration, modification or substitution of the grounds of the appeal

7.1 No such option has been exercised by the appellant during the appeal proceedings. Therefore, it is clear that this ground of appeal is academic in nature and no decision is required in respect of this ground. For statistical purposes, this is treated as Dismissed.

8. In the result, the appeal of the appellant for the A.Y. 2013-14 is dismissed.”

5. The assessee aggrieved with the order of the CIT(A) has carried the matter in appeal before the Tribunal.

6. I have heard the Learned Authorised Representatives of both parties, perused the orders of the lower authorities and material available on record.

7. Shri Suresh Kumar Jain, CA, the Learned Authorized Representative (for short “Ld.AR”) for the assessee, at the threshold of hearing of the appeal, submitted that both the lower authorities had grossly erred in law and on the facts of the case in summarily re-characterizing the genuine gift received by the assessee from his daughter as an unexplained cash credit under section 68 of the Act.

8. Elaborating on his contention, the Ld.AR submitted that though it is a matter of fact that the AO to verify the genuineness of the gift transaction had, in the course of the assessment proceedings, issued a notice under section 133(6) of the Act to the assessee’s daughter, viz. Smt. Neelam Kumari, but as she was on the relevant date away to Rajasthan and not available, therefore, she could not revert back and place on record the requisite documents to substantiate the genuineness of the gift transaction. The Ld.AR submitted that thereafter, Smt. Neelam Kumari (supra), vide her letter dated 08.09.2021 addressed to the A.O had duly confirmed the gift transaction, furnished her complete Income Tax credentials i.e., PAN (BVGPK7047F), and had categorically stated that she had gifted the subject amount to her father on 19.07.2012, which in turn was sourced out of her taxable income that was duly debited to her “Capital Account” which formed part of her books of account. Also, the assessee, to dispel any doubt and fortify her claim regarding the genuineness of the subject gift transaction, had placed on record a copy of her income tax returns along with copies of the computation of

income and capital account of Smt. Neelam Kumari (supra) for the subject year ending 31.03.2013, Page 32 of the Paper book (APB).

9. Carrying his contention further, the Ld.AR submitted that the assessee in the course of the assessment proceedings had also placed on record an “affidavit” of his daughter dated 27.01.2022, wherein she had categorically deposed that she had given a cash gift of Rs. 16,40,000/- on 19.07.2012 to her father. The Ld.AR submitted that both the authorities below had grossly erred in brushing aside and not appreciating the aforesaid material facts and summarily re-characterised the genuine gift received by the assessee from his daughter, viz. Smt. Neelam Kumari (supra) as an unexplained credit under section 68 of the Act.

10. Per contra, Sri K. Prasad, Learned Senior Departmental Representative (for short, “Ld. DR”) at the threshold of hearing of the appeal, submitted that as the assessee had failed to substantiate the genuineness and veracity of the subject gift transaction, therefore, the A.O had rightly added the same as an unexplained cash credit under section 68 of the Act. Elaborating further on his contention, the Ld. DR submitted that the assessee, even before the CIT(A), had failed to prove his claim of having received a genuine cash gift from his daughter based on supporting documentary evidence.

11. I have given thoughtful consideration to the contentions advanced by the Learned Authorised Representatives of both parties, perused the orders of the authorities below and the material available on record.

12. Admittedly, it is a matter of fact borne from the record that the assessee had claimed to have received a cash gift of Rs. 16,40,000/- from his daughter viz., Smt. Neelam Kumari. Although it is a matter of fact discernible from the record that Smt. Neelam Kumari (supra) in the course of the assessment proceedings had failed to revert back and furnish her reply to the notice under section 133(6) of the Act that was issued by the A.O, but I find that prior to completion of the assessment by the A.O vide his order passed under section 147 r.w.s 144 r.w.s 144B of the Act dated 15.09.2021, copy of her confirmation of the gift transaction was filed before the AO vide letter dated 08.09.2021, wherein she had confirmed the gift transaction and also provided her complete Income Tax credential i.e., PAN (BVGPK7047F). On a perusal of the confirmation, we find that Smt. Neelam Kumari (supra) had stated that she had given a cash gift of Rs. 16,40,000/- to her father on 19.07.2012 out of her taxable income. In order to fortify her claim, she had enclosed a copy of her “capital account” wherein the subject amount was found debited. Also, a copy of the Income Tax Return for the subject year of Smt. Neelam Kumari (supra) furnished vide acknowledgement No. 638575770290613 dated 29.06.2013, along with a copy of her computation of the income was filed before the lower authorities. Apart from that, we find that the copy of the gift deed dated 19.07.2012, wherein the donor, viz. Smt. Neelam Kumari (supra) had confirmed the gift transaction was very much available with the A.O at the stage of framing the assessment. Apart from that, an affidavit dated 27.01.2022 of Smt. Neelam Kumari (supra) dated 27.01.2022, wherein she had deposed to have gifted the subject amount to her father was also available on the assessment record.

13. I find that on perusal of the assessment order that the impugned addition had been made by the AO for the reason that Smt. Neelam Kumari, i.e, assessee's daughter, had failed to explain the source from which she had given the cash gift to her father. Further, the CIT(A) had also upheld the addition made by the AO by observing that the assessee had not provided any documentary evidence explaining the source of the gift given by Smt. Neelam Kumari. In my view, the impugned addition of Rs. 16,40,000/- had been made/sustained by the lower authorities primarily for the reason that the source out of which the donor, viz. Smt. Neelam Kumari (supra) had made the cash gift had not been established to the satisfaction of the authorities below. In my view, the manner in which the subject issue has been dealt with by the lower authorities cannot be subscribed by me. I say so, mainly for the reason that both the authorities below had shut their eyes to the substantial documentary evidence as was available before them viz., (i). affidavit of the donor dated 27.01.2022; (ii). Gift deed dated 19.07.2012; and (iii). confirmation letter filed by the donor dated 08.09.2021, along with a copy of the return of income, computation of income and capital account wherein the subject gift transaction is specifically disclosed.

14. Although I cannot remain oblivion of the fact that the creditworthiness of the donor has to be established for proving the genuineness of the gift transaction, but I find it incomprehensible that as to why the aforesaid documents, which were very much available before both the lower authorities, had been summarily discarded by the authorities below. I am of the firm conviction that, as the matter has not been properly looked into by the authorities below, therefore, the same requires to be revisited by the

A.O. Accordingly, the AO is directed to verify the genuineness of the claim of the assessee of having received a cash gift of an amount of Rs. 16,40,000/- from his daughter, viz. Smt. Neelam Kumari (supra), after taking cognizance of the aforementioned documents, which as on date are available on the record. I, thus, in terms of my aforesaid observations, set aside the matter to the file of the AO for fresh adjudication.

15. Resultantly, the appeal filed by the assessee is allowed for statistical purposes in terms of my aforesaid observations

Order pronounced in the open court on 10th February, 2026.

Sd/-

(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 10.02.2026

*Giridhar, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **Manoharmal**
27-37-162, MG Road
Two Town, Vijayawada – 520002,
Andhra Pradesh
2. राजस्व/ The Revenue : **Income Tax Officer, Ward-2(1)**
C.R. Building, MG Road
Vijayawada - 520002
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Visakhapatnam

Sl. No.	Description	Date	Initials
1.	Date of dictation by the Author	10.02.2026	Sr.PS
2.	Draft placed before the Dictating Member	10.02.2026	Sr.PS
3.	Draft placed before the Second Member		Sr. PS
4.	Draft approved by the Second Member		Sr. PS
5.	Date of approved order comes to the Sr. PS		Sr. PS
6.	Date of pronouncement of order		Sr. PS
7.	Date of uploading of the order		Sr.PS
8.	Date of file sent to the Bench Clerk		Sr. PS
9.	Date on which file goes to the OS		B.Clk
10	Date on which file goes to the Sr.PS		OS
11.	Date of despatch of order		Sr. PS