

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri B.R. Baskaran (AM)

I.T.A. No. 743/Mum/2017
(Assessment Year 2009-10)

Priti Uppal 204, Golden Height Plot No. 34 Sector 20 Koparkhairane Navi Mumbai-400 709. (Appellant)	Vs.	ITO 22(3)(3) Vashi Navi Mumbai (Respondent)
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PAN No. AAJPU2193H

Assessee by	Shri Rajesh S. Shah
Department by	Miss Bharti Singh
Date of Hearing	4.5.2017
Date of Pronouncement	4.5.2017

ORDER

The assessee has filed this appeal challenging the order dated 19-12-2016 passed by Ld CIT(A)-26, Mumbai and it relates to the assessment year 2009-10. The assessee is aggrieved by the decision rendered by Ld CIT(A) on the following issues:-

- (a) Addition made u/s 69 of the Act – Rs.7,20,000/-.
- (b) Addition to business income – Rs.1,99,221/-.
- (c) Disallowance of interest claim against house property income.

2. The Ld A.R submitted that the assessee is an insurance agent and she filed her return of income declaring a total income of Rs.1,57,540/-. For reasons beyond the control, the assessee could not appear before the AO and hence the AO completed the assessment by making certain additions to the best of his judgement u/s 144 of the Act. Before the Ld CIT(A), the assessee filed written

submissions only and did not appear. However, the Ld CIT(A) gave partial relief to the assessee.

3. With regard to the first issue, the Ld A.R submitted that the assessee along with her husband had purchased a flat for a sum of Rs.37.00 lakhs. The AO received the information relating to the same through AIR and assessed the entire investment as income of the assessee. The Ld CIT(A) noticed that the assessee has availed loan from a bank and hence gave relief to the extent of the loan amount. The Ld A.R submitted that the remaining amount was incurred by way of cheque from the account of the assessee's husband. However, the Ld CIT(A) did not accept the same, since there were minor deficiencies in the explanations and accordingly sustained the addition to the extent of Rs.7,20,000/-. He further submitted that the payments have been duly accounted for by the assessee's husband and hence no addition is called for. He submitted that the assessee's husband has duly disclosed the details of purchase of flat in his return of income. He also submitted that the amount of Rs.7,20,000/- includes payment of advance for purchase of flat, which was paid in the immediately preceding year and hence the said advance could not have been assessed during the instant year. He submitted that the assessee had paid a sum of Rs.4.00 lakhs to the proprietary concern of assessee's husband towards payment of advance and accordingly the assessee's husband had issued cheques. He submitted that the tax authorities have not been properly apprised of these facts and accordingly submitted that this matter may be set aside to the file of the AO. With regard to other two issues also, the Ld A.R prayed that they also be restored to the file of the AO.

4. The Ld D.R also did not object to the plea of the Ld A.R. Since the AO has passed the order u/s 144 of the Act and since the Ld CIT(A) has passed the order on the basis of written submissions, I am of the view that there is merit in

the prayer of Ld A.R. Accordingly I set aside the order passed by Ld CIT(A) on the above said issues and restore the same to the file of the AO for examining them afresh. In respect of payments made through the account of assessee's husband, the AO shall examine the claim of the assessee vis-a-vis the books of account & income tax return of assessee's husband and if they have been accounted for therein, no addition is called for. The assessee is also directed to co-operate with the AO for expeditious disposal of the case.

5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order has been pronounced in the Court on 4.5.2017.

Sd/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 4/5/2017

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,
(Dy./Asstt. Registrar)
ITAT, Mumbai