

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH 'D' NEW DELHI**

**BEFORE : SHRI S.K. Yadav, JUDICIAL MEMBER &
 SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**ITA No. 6766/Del./2013
Asstt. Year : 2006-07**

Deepa Gupta,
A-2/14A, Model Town-I,
New Delhi.[PAN: AAKPG6413H]
(Appellant)

vs.

A.C.I.T., Central Circle-15,
New Delhi.

(Respondent)

| | | |
|-----------------------|---|---------------------------|
| Appellant by | : | Sh. Anil Jain, C.A. |
| Respondent by | : | Sh. Shravan Gotru, Sr. DR |
| | | |
| Date of hearing | : | 07.03.2016 |
| Date of pronouncement | : | 21.04.2016 |

ORDER

Per L.P. Sahu, Accountant Member:

This is an appeal filed by the assessee against the order of CIT(A)-IV, New Delhi dated 09.10.2013 for the assessment year 2006-07 on the following grounds :

- 1. That on the facts and circumstances of the case and the provisions of law the Ld. CIT(Appeal) has failed to appreciate that the impugned assessment order passed by learned assessing officer u/s. 143(3) is illegal, bad in law, time barred, without jurisdiction and wrong on facts.*

- 2. That on the facts and on the circumstances of the case and the provision of law the Ld CIT(Appeals) has erred in sustaining addition of Rs.1,50,000/- on account of cash repayment of loan."*

2. The brief facts of the case are that a search and seizure operation was carried out u/s. 132 of the IT Act, 1961 at the residence of family of assessee on 22.03.2006. Accordingly, notice u/s. 143(2) of the Act dated 21.08.2006 was issued and served upon the assessee. In response to this, the assessee filed return of income 26.03.2007 declaring income of Rs.1,70,240/-. During the scrutiny proceedings, the AO found that the assessee has repaid the loan amounting to Rs.1,50,000/- to Shri Anoop Gupta, her husband in cash. The assessee was asked to explain the source of repayment of above loan. The AR of the assessee could not produce any material regarding source of repayment of loan as per order sheet entry dated 29.11.2007. The assessee produced cash book, but no worthwhile cash in hand was found in it. As per cash book produced by the assessee, the loan was paid on 14.09.2005. The AO found that there was no sufficient cash in hand. Therefore, the AO treated it as income of assessee from undisclosed sources and added the same to the income of assessee.

3. Against the order of the AO, the assessee preferred an appeal before the Id. CIT(A) who confirmed the order of the assessing officer. Aggrieved by the impugned order, the assessee is in appeal before the Tribunal.

4. During the course of hearing, the Id. AR reiterated the submissions made before the Id. CIT(A) which have been reproduced in para 7.2 of the impugned order as under :

"2. In the year under consideration the assessee had paid or returned a loan of Rs. 1,50,000/- to her husband. This amount has been treated by the AO as income even though the same is out of the cash and Balance Sheet. All such details regarding the availability of cash were filed before the AO. The assessee derived income of Rs.85,000/- and also received remuneration from Balaji Perfumes of 16,000/-. There was a huge opening balance of 1,14,137/-. Even this opening balance has been taxed in the earlier year. The amount of Rs. 1,50,000/-

has been re-paid out of the opening balance and a/so out of the current year income and as per the cash book which has not been found to be false. Hence the addition has been incorrectly made and same may kindly be deleted. The observation of the AO that the remuneration is not genuine is not correct. For remuneration it is not necessary that the person must visit the business premises. The remuneration has been paid as per the partnership deed and also as per the agreement between the partners and also as per requirement of the business. In any case the AO had himself assessed the same as my income and is also as my cash books and also as per the books of the payers. When it is so, how can it be rejected or even considered. Finally and in brief the' assessment has been completed with appreciating the full facts of the case and evidence produced ignored. The payment is out of books and yet addition made. These arbitrary additions may kindly be deleted."

5. The learned Departmental Representative relied on the orders of the authorities below.

6. After hearing the rival submissions and perusing the entire material on record, we find that the assessee has submitted cash book at page 11 of the paper book, in which we find that there is opening cash balance as on 01.04.2005 of Rs.1,14,137/-. After going through the cash book, we further find that assessee has repaid the loan to her husband on 14.09.2005 through cash of Rs.1,50,000/- whereas the opening cash balance shown as on 01.09.2005 is only of Rs.1,46,937/-. Between these two dates, i.e., 01.09.2005 and 14.09.2005, there is no entry regarding movement of any cash incoming or outgoing. This clearly shows that the assessee had no sufficient fund to make repayment of Rs.1,50,000/- towards loan to her husband as on 14.09.2005. Therefore, the Id. Authorities below appears to have rightly held that the assessee utterly failed to explain the source of alleged repayment of loan. Accordingly, we do not find any justification to interfere with the order of the Id. CIT(A).

7. In ground No. 1 of appeal, the assessee has raised an issue that the impugned assessment order is barred by time. A perusal of assessment order reveals that the case of assessee pertains to A.Y. 2006-07 and the assessment order has been passed on 28.12.2007, i.e., well within the period of limitation. How the assessment order was barred by limitation, is not explained by the assessee. Moreover, this issue has never been raised by the assessee before any of the authorities below. Hence, this plea of the assessee is not found sustainable at all. Accordingly, the appeal of the assessee is found devoid of merit and is liable to fail.

7. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 21.04.2016.

Sd/-

(S.K. Yadav)
Judicial Member

Sd/-

(L.P. SAHU)
Accountant Member

Dated : 21.04.2016

*aks/-

Copy of order forwarded to:

(1) *The appellant*
(3) *Commissioner*
(5) *Departmental Representative*

(2) *The respondent*
(4) *CIT(A)*
(6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Delhi Benches, New Delhi