

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL
'A' (SMC) BENCH : CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य के समक्ष।

[BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A. No. 1261/Mds/2016

निर्धारण वर्ष /Assessment year : 2010-2011.

Smt. R.K. Malathy,
No.12, Padmavathy Nagar,
IInd Street,
Mohan Garden, Korattur,
Chennai 600 080.

Vs. The Income Tax Officer,
Business Ward XIII (4)
Chennai.

[PAN AZQPM 2132G]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri. A.S. Sriraman, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri. M.S. Nethrapal, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 29-05-2017

घोषणा की तारीख /Date of Pronouncement

: 31-05-2017

आदेश / ORDER

This is an appeal filed by the assessee directed against an order dated 17.12.2015 of Id. Commissioner of Income Tax (Appeals)-7, Chennai.

2. Appeal has been filed with a delay of Eighty Four days. Assessee has filed a Condonation petition in which it says that her Chartered Accountant fell ill and could not give advice nor file the appeal in time. Ld. Departmental Representative did not raise any serious objection. Accordingly delay is condoned. Appeal is admitted.

3. The only effective ground taken by the assessee is on sustenance of an addition of ₹27,42,370/- considered by the Id. Assessing Officer as unexplained credit in the bank accounts of the assessee. During the course of assessment proceedings of the assessee, who was having income only from capital gains and other sources, it was noted by the Id. Assessing Officer that she had two bank accounts, one with M/s. Punjab National Bank, Anna Nagar branch and another with M/s. Central Bank of India, Kilpauk branch. Ld. Assessing Officer found that assessee had made the following cash deposits in the above bank accounts.

Sl.No	Name of the Bank	Date of Deposit	Amount of Deposit (Rs)
1	Central Bank of India	11/7/2009	1,000
2	Central Bank of India	15/7/2009	5,00,000
3	Central Bank of India	08/08/2009	5,00,000
4	Central Bank of India	11/12/2009	8,00,000
5	Central Bank of India	11/12/2009	10,000
6	Central Bank of India	12/12/2009	4,000
7	Punjab National Bank	13/07/2009	1,000
8	Punjab National Bank	06/07/2009	5,00,000
	Punjab National Bank	22/08/2009	6,00,000
Total			29,15,000

Since assessee was a Non Resident Indian, settled in Middle East, she was represented by her father. It seems he was not able to give details and source for the deposits in the above bank accounts. Ld. Assessing Officer made an addition for the entire cash deposits in the bank accounts after deducting the returned income of ₹1,72,630/-.

4. In her appeal before Id. Commissioner of Income Tax (Appeals), argument of the assessee was that she had sold gold jewellery and silver articles gifted to her by her grandfather in 1995 when she was nine years of age. As per the assessee a declaration of gift, executed on 5th July, 1995 by Shri. RS Armugam, her grandfather was filed before the Id. Assessing Officer, but was not considered. However, Id. Commissioner of Income Tax (Appeals) did not accept the above contention, but confirmed the additions citing the following reasons.

"1) The source of jewellery in the hands of grandfather has not been explained. No Wealth-tax returns or any other piece of evidence has been brought on record to substantiate the contention that the impugned jewellery was possessed by the grandfather.

2) There was no voluntary disclosure of the source of cash deposits in the return of income filed by the appellant.

3) The matter came to light only on account of the AIR information received from the Bank.

4) Crucially, the appellant has not been able to bring any evidence on record regarding the sale of the impugned jewelry and silver articles.

5) During the course of hearing, authorised representative submitted that the sale was made in cash, and as such there is no documentation or evidence.

6) In the circumstances, the appellant has neither been able to give any evidence regarding the source of the precious items in the hands of the grandfather, nor any evidence whatsoever pertaining to the sale of jewellery and receipt of cash that was stated to have been deposited in the bank account”.

5. Now before me, Id. Authorised Representative submitted that the assessee being a Non Resident Indian did not get sufficient opportunity to produce the records relating to sale of gold jewellery before lower authorities. As per Id. Authorised Representative there was a communication gap between the assessee and her father who was representing her. Contention of the Id. Authorised Representative was that assessee was having every record to prove auction of gold jewellery by one M/s. Gurusanthi Auctioneers, which gave all details of the money received by her on the sale of the gold jewellery, gifted to her by her grandfather. Contention of the Id. Authorised Representative was that assessee having become a Non Resident, she was not interested in holding any gold jewellery in India and hence made the sale.

6. Per contra, Id. Departmental Representative submitted that assessee was given number of opportunities by the lower authorities but failed to produce necessary evidence in support of the credits in the bank account.

7. I have considered the rival contentions and perused the orders of the authorities below. Claim of the assessee is that source for the deposits in bank were out of sale proceeds of gold ornaments given to her by her Grandfather when she was aged nine. It is not disputed by the Id. Departmental Representative that assessee had filed before Id. Assessing Officer a gift deed executed on 5th July, 1995 by Shri. RS Armugam, grandfather of the assessee. Since assessee is a Non Resident there is a distinct probability that she was not able to reach out to the Id. Assessing Officer and produce evidence of auction of gold jewellery by M/s. Gurusanthi Auctioneers. Id. Authorised Representative has produced before me, records which prima facie show that Gurusanthi Auctioneers had auctioned various items of gold jewellery owned by the assessee. In the circumstances, I am of the opinion that the matter requires a fresh look by the Id. Assessing Officer. I set aside the orders of the authorities below and remit the issue regarding source of deposits made by the assessee in her bank account back to the file of the Id. Assessing Officer, for consideration

afresh in accordance with law. Assessee shall be given adequate opportunity to furnish evidence in support of her claim.

8. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced on Wednesday, the 31st day of May, 2017, at Chennai.

Sd/-
(अब्राहम पी. जॉर्ज)
(ABRAHAM P. GEORGE)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated:31st May, 2017

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT | 6. गार्ड फाईल/GF |