

आयकर अपीलीय अधिकरण, 'बी' न्याय पीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI
श्री महावीर सिंह, उपाध्यक्ष एवं श्री अरुण खोडपिया, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE-PRESIDENT
AND SHRI ARUN KHODPIA, ACCOUNTANT MEMBER

आयकरअपीलसं./I.T.A.Nos.148 to 150/Chny/2022
(निर्धारणवर्ष / Assessment Years: 2016-17, 2017-18, 2018-19)

Smt. Balusamy Manimekalai, 42A, PVR Street, Mohanur Road, Gandhi Nagar, Namakkal-637 001.	Vs	The Assistant Commissioner of Income Tax, Central Circle-2(3) Chennai.
PAN :AKIPM 4023H		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. G.Baskar, Advocate
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. S. Senthil Kumaran,CIT

सुनवाईकीतारीख/Date of hearing	:	14.03.2023
घोषणाकीतारीख /Date of Pronouncement	:	14.03.2023

आदेश / ORDER

PER MAHAVIR SINGH, VP:

These three appeals by the assessee are arising out of separate orders passed by the CIT(A)-19, Chennai, vide ITA Nos.544, 545 & 546/2019-20, dated 16.02.2022 / 17.02.2022. The assessments were completed by the Assistant Commissioner of Income Tax, Central Circle-2(3), Chennai, for the relevant assessment years 2016-17 to 2018-19 u/s. 143(3) r.w.s 153C of the Income Tax Act, 1961 (hereinafter 'the Act') vide separate orders dated 31.12.2019. Since, facts are identical and issues are common, these three appeals are heard together and are being disposed off, by this consolidated order for the sake of convenience.

ITA No.148/Chny/2022 (A.Y. 2016-17):

2. The only issue in this appeal of the assessee is as regards to order of the CIT(A) restricting marriage expenses disallowed to the extent of 50% at Rs.11,47,930/-, as against total disallowance made by the Assessing Officer at Rs.22,95,860/-.

3. We have heard rival submissions and gone through facts and circumstances of the case. Brief facts are that a search and seizure operation was conducted at the business and residential premises of the assessee by the income-tax department u/s.132 of the Act, on 09.11.2017. During the course of search and seizure, certain loose papers i.e., loose sheets numbered 1 to 15 was found and seized from residential premises of the assessee, which contain details of expenses of marriage function of daughter of the assessee amounting to Rs.45,91,720/-. According to the assessee, marriage expenses are approximately Rs.40.00 lakhs. The assessee filed confirmation letters from Mr.V.Ravichandran i.e, bridegroom side, confirming sharing of marriage expenses. It was claimed that total expenses towards marriage was

Rs.31,84,447/- and out of which bridegroom side, which Mr. V.Ravichandran shared Rs.8,81,430/-, Mrs. V.Kamalam shared Rs.1,25,000/- and Mr. R.Aditya Venugopal shared Rs.21,78,017/- and bride side also shared a sum of Rs.20.00 lakhs. According to the Assessing Officer, the assessee could not explain receipts and payments in regard to marriage expenses and could not submit any supporting documents to substantiate source and mode of payment for above expenses, except showing huge opening balance as on 01.04.2010. The Assessing Officer noted that as per seized material, expenses incurred were towards marriage function of her daughter amounting to Rs.45,91,720/- and as per page No. 12 of annexure No.RS/BM/LS/1 dated 11.11.2017, the expenses were divided into two and same was explained by the assessee. Accordingly, the Assessing Officer treated assessee's share of marriage expenses at Rs.22,95,860/- as unexplained expenses and brought to tax. Aggrieved, the assessee preferred appeal before the CIT(A).

4. The CIT(A), after going through submissions and arguments of the assessee, treated 50% as explained and

restricted the unexplained by 50% by observing in para 12 as under:-

12. Although it is customary to get cash gifts on the occasion of marriage, there has to be a reasonable explanation towards the quantum of cash gifts. No gift confirmation was filed either during the post search enquiry or during the assessment proceedings. The least that could have been done is a gift confirmation from the appellant's father and brother who is said to have gifted Rs. 2 lakhs each. Though the quantum of gift is the highest of all, their name curiously finds a place in the end of the note book. It is pertinent to note that the moi book is neither found or seized during the search; but was produced only in the course of post search enquiry. I would reasonably fix Rs. 4 lakhs as the cash gift received. In this background, (out of Rs.22,95,860/-), the 50% of the total expenditure amounting to Rs. 11,47,930/- is treated as explained, and balance 50% treated as unexplained. I would, therefore, sustain an addition of Rs.11,47,930/-."

Aggrieved, the assessee now preferred an appeal before the Tribunal.

5. Before us, learned counsel for the assessee stated that the CIT(A) has made estimate, but the CIT(A) has not considered opening balance of cash in hand as on 01.04.2010 and debit shown in cash flow statement of Rs.13,49,875/-.

6. After hearing both the sides and going through fact that the cash flow statement filed along with return of income shows that there is debit of Rs.13,49,875/- towards drawings and marriage expenses. As noted by the CIT(A), there is further gift confirmation from the assessee's father and brother, who are said to have gifted a sum of Rs.2,00,000/- each, that means total Rs.4.00 lakhs in aggregate. It means that explanation has come to the extent of debit of cash flow statement towards drawings and marriage expenses of Rs.13,49,875/- plus gift of Rs.4,00,000/- from assessee's father and brother, which comes to Rs.17,49,875/-. If we deduct this explained amount from total marriage expenses of assessee's share Rs.22,95,860/-, it comes to Rs.5,45,985/-. According to us, remaining unexplained money of Rs.5,45,985/-, which needs to be added. Therefore, we restrict addition to Rs.5,45,985/- and direct the Assessing Officer accordingly. The issue of the assessee is partly allowed.

7. As regards charging of interest u/s.234A, 234B and 234C of Rs.13,99,843/- challenged by the assessee, according to us, this charging of interest is consequential in nature and the

Assessing Officer, while giving appeal effect to this order of Tribunal and will recompute interest in accordance with law.

8. The appeal of the assessee is partly allowed.

ITA No.149/Chny/2022 (AY:2017-18):

9. The only issue in this appeal of the assessee is as regards to order of the CIT(A) restricting addition of Rs.5.00 lakhs on account of unexplained investments for purchase of agricultural land added by the Assessing Officer at Rs.10,21,000/-.

10. We have heard rival contentions and gone through facts and circumstances of the case. The Assessing Officer, during the course of assessment proceedings, noted that the assessee purchased land measuring 2.2 acres in the year 2017 for a consideration of Rs.10.00 lakhs. The assessee was asked to explain source of purchase of land for a sum of Rs.10.00 lakhs and mode of payment. The assessee submitted that she had purchased 2.71 acres at Selur village for a sum of Rs.10,21,900/-, but could not file any supporting evidences to explain source. Hence, the Assessing Officer added a sum of Rs.10,21,000/- towards unexplained investments for purchase

of agricultural land. Aggrieved, the assessee preferred an appeal before the CIT(A).

11. The CIT(A) restricted addition of Rs.5.00 lakhs and deleted balance addition of Rs.5,21,000/-, after considering submissions of the assessee. Aggrieved, the assessee came in appeal against restriction of addition by the CIT(A) at Rs.5.00 lakhs.

12. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee purchased agricultural land of 2.71 acres at Selur village, Namakkal District vide three different sale deeds for a consideration of Rs.9.50 lakhs and separate registration charges of Rs.71,900/- aggregating to Rs.10,21,000/-. The details of sale deed reads as under:-

Date	Doc No.	Executant	Extent in acres	Cost of acquisition Rs.
14.10.216	3019/2016	M.Palaniappan & 2 others	1.37	5,38,500
	3020/2016	C.Shannugam & 1 other	0.62	2,15,400
	3021/2016	Pichayee & Others	0.72	2,68,000
Total			2.71	10,21,900

The assessee explained that she held sufficient opening cash balance as on 01.04.2016 amounting to Rs.7,46,464/- and apart from that the assessee has sources during the year as under:-

Nature of income	Amount Rs.
Income from Advocate profession	4,51,770
Agricultural income	1,50,000
Income from JCB before depreciation	1,01,310
Interest income	25,000
Total	Rs.7,28,080

13. The CIT(A), after going through the facts that the assessee had opening cash balance amounting to Rs.7,46,464/- and also income earned during the year, he accepted investment made in purchase of agricultural land at Rs.5.21 lakhs as explained and balance of Rs.5 lakhs was sustained and a sum of Rs.5,21,000/- was accepted.

14. We noted that the assessee has opening cash in hand as on 01.04.2016 at Rs.7,46,464/- and apart from the above, income disclosed is Rs.7,28,080/-. We noted that the assessee's sources are to the tune of Rs.14.70 lakhs, if we

include cash in hand of Rs.7,46,464/-, apart from current year's income. Hence, according to us, the assessee could explain source of purchase of agricultural land at Rs.7.50 lakhs and balance Rs.2.61 lakhs remained unexplained. Hence, we restrict addition to Rs.2.61 lakhs and direct the Assessing Officer accordingly. This issue of the assessee is partly allowed.

15. As regards charging of interest u/s.234A, 234B and 234C of Rs.13,09,757/- challenged by the assessee, according to us, this charging of interest is consequential in nature and the Assessing Officer while giving appeal effect to this order of Tribunal and will recompute interest in accordance with law.

16. The appeal of the assessee is partly allowed.

ITA No.150/Chny/2022 (A.Y.2018-19):

17. The first issue in this appeal of the assessee is as regards to order of the CIT(A) confirming action of the Assessing Officer in making addition of balance gold jewellery found and seized from premises of the assessee and restricting addition to the extent of value of 316 gms.

18. Brief facts are that the assessee has filed detailed chart of jewellery found from residence, jewellery found from locker and total jewellery found which read as under:-

Jewellery found in residence	221 gms
Jewellery found in locker	221 gms
Total jewellery found	1629 gms

Explanation offered by the assessee	Accepted by the Assessing Officer	Accepted by CIT(A)	Sustained for addition
belonging to married daughter Dharani – 216 gms (net 200 gms)	Nil	216 gms	Nil
Belonging to Sister-in-law – Amudha – 528 gms	Nil	528 gms	Nil
Belonging to self, spouse 7 son – 866.600 gms.	221 gms	550 gms (including 221 gms by AO)	316 gms

Out of the above jewellery found of 1629 gms., 1,408 gms was seized by the income tax department. Now, before us, disputed jewellery is only to the extent of 316 gms. The learned counsel for the assessee took us through para 12.7, which reads as under:-

“12.7 The balance jewellery to be explained towards the appellant’s jewellery found in the locker of about 645.600 gms. Jewellery weighing 221 gms was found in the appellant’s residence but not seized. Thus, a total of

866.600 needs to be explained by the appellant. In the sworn statement recorded at the time of search, stated that she got about 75 sovereigns from her parents. She also stated that the rest of the jewellery was given on various occasions. The AO rejected the claim on the ground that no wealth return was filed.”

19. The learned counsel for the assessee stated that the assessee admitted during the course of search that there are 75 sovereigns of gold received from her parents, which comes around 600 gms, and jewellery found from residence, but not seized 221 gms. That means, jewellery comes to 821 gms. There remains 50 gms, which was accepted by the CIT(A), being jewelry belonging to spouse and son of the assessee. The learned counsel for the assessee explained that the CIT(A) has wrongly affirmed addition to the extent of value of 316 gms jewellery, despite fact that the same was explained.

20. After hearing both the sides and going through facts and circumstances of the case, we are of the considered view that the CIT(A) has not taken into consideration 75 sovereigns received by the assessee from her parents. Hence, in our view balance gold jewellery of 316 gms is explained and thus, we delete the addition.

21. The next issue in the appeal of the assessee is order of the CIT(A) confirming addition of Rs.36,001/- out of total addition made by the Assessing Officer at Rs.8,22,953/- being unexplained income of the assessee .

22. At the time of hearing, the learned counsel for the assessee has not at all argued this ground and hence, the same is dismissed as not argued.

23. As regards charging of interest u/s.234A, 234B and 234C of Rs.38,95,433/- challenged by the assessee, according to us, this charging of interest is consequential in nature and the Assessing Officer while giving appeal effect to this order of Tribunal and will recompute interest in accordance with law. The appeal of the assessee is partly allowed.

24. To sum up, all these three appeals of the assessee are partly allowed.

Order pronounced in the open court on 14th March, 2023

Sd/-
(अरुण खोडपिया)
(Arun Khodpia)
लेखा सदस्य / Accountant Member
चेन्नई/Chennai,
दिनांक/Date: .14.03.2023
DS

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष/ Vice-President

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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