

IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA

[Before Shri Mahavir Singh, JM & Shri M. Balaganesh, AM]

I.T.A No.767/Kol/2012
Assessment Year: 2001-02

Ranjit Kumar Saha
(PAN:ALQPS1759K)
(Appellant)

Vs. Assistant Commissioner of Income-tax
Circle-42, Kolkata
(Respondent)

Date of hearing: 25.08.2015

Date of pronouncement: 14.09.2015

For the Appellant: Shri Subash Agarwal, Advocate

For the Respondent: Shri Amitabh Chaudhuri, Addl. CIT

ORDER

Per Shri Mahavir Singh, JM:

This appeal by assessee is arising out of order of CIT(A)-XXX, Kolkata in appeal No. 143/CIT(A)-XXX/Cir-42/2011-12 dated 23.02.2012. Assessment was framed by ACIT, Circle-42, Kolkata u/s. 143(3)/254 of the Income-tax Act, 1961 (hereinafter referred to as the Act) for AY 2001-02 vide its order dated 18.11.2008.

2. The only issue in this appeal of assessee is against the order of CIT(A) confirming the action of AO in treating the gift received from mother of Rs.5 lacs as income u/s. 69A of the Act. For this, assessee has raised following ground, which was revised as under:

“1. For that on the facts and in the circumstances of the case, the Ld. CIT(A) was not justified in confirming the addition of Rs.5,00,000/- made by the AO on account gift received by the appellant from his mother by wrongly invoking the provision of section 69A.”

3. Briefly stated facts are that the assessee claimed to have received gift of Rs. 5 lacs from his mother and AO required the assessee explain the gift but the AO has not accepted the explanation of the assessee. It was explained before the AO that Smt. Haridasi Saha, mother of the assessee received cash gifts on her 63rd birthday from 28 persons. The assessee submitted a list of 28 persons before the AO, before the CIT(A) and also now before us with their names, address, PANs, relation and amount of gift received. The amount of gift received varies from Rs. 13,000/- to Rs.20,000/-. According to assessee, all the 28 persons were filing return of income who gifted a total sum of Rs. 5 lacs and in turn Smt. Haridasi Saha gifted this amount to her son, the assessee herein. The AO has not accepted any of the explanation of the assessee and made addition of the above gifts as unexplained income of the assessee under section 69A of the Act. Aggrieved, assessee preferred appeal before CIT(A), who also confirmed the action of AO. Aggrieved, now assessee is in appeal before us.

4. We have heard rival submissions and gone through facts and circumstances of the case. We find that assessee's mother Smt. Haridasi Saha has received gift amounting to Rs.5 lacs from following 28 persons, whose complete names, addresses, PANs, relations and amount of gift received as mentioned as under:

Sl. NO.	NAME	ADDRESS	PAN	RELATION	GIFT RECEIVED
					Rs.
1	BABUL CHANDRA SAHA	SAHA PALLY, BARASAT, 24 PGS (N)	AVDPSS5563Q	SON-IN-LAW	19,000.00
2	HARIPADA SAHA	DURGANAGAR, BADRA, KOLKATA - 79	AVDPSS547A	NEPHEW	20,000.00
3	LAKSHMI RANI SAHA	2, AIRPORT GATE, MOTILAL NEHERU MKT. KOLKATA - 81	AUCPS9913J	NICE	15,000.00
4	NARAYAN CHANDRA SAHA	2, AIRPORT GATE, MOTILAL NEHERU MKT. KOLKATA - 81	AVDPSS160M	NEPHEW	19,000.00
5	SEEMA RANI SAHA	DURGANAGAR, BADRA, KOLKATA - 79	AUDPS8595B	NICE	20,000.00
6	SUJIT SAHA	DUNLAP SUPER MKT. 24 PGS (N)	AVDPS6162P	NEPHEW	18,000.00
7	BHOLA NATH SAHA	SAHA PALLY, BARASAT, 24 PGS (N)	AVGPS8548C	SON-IN-LAW	12,000.00
8	SUBHA RANI SAHA	MADHYAMGRAM BAZAR, CHOWMATIHA, 24 PGS (N)	AVDPSS941E	DAUGHTER	18,000.00
9	MONI RANI SAHA	144, S.K. DEB ROAD, KOLKATA - 48	AVDPSS576P	DAUGHTER	20,000.00
10	CHANDAN KR. SAHA	AE-542, SALT LAKE CITY, KOLKATA - 64	AVDPSS5624C	GRANDSON	18,000.00
11	KANA RANI SAHA	DURGANAGAR, BADRA, KOLKATA - 79	AUDPS8495G	DAUGHTER	18,000.00
12	RONU RANI SAHA	DUNLAP SUPER MKT. 24 PGS (N)	AVDPS5870L	DAUGHTER	19,000.00
13	ANNA RANI SAHA	DUNLAP SUPER MKT. 24 PGS (N)	AVDPS5743A	DAUGHTER	20,000.00
14	SUKUMAR SAHA	2, AIRPORT GATE, MOTILAL NEHERU MKT. KOLKATA - 81	AVDPSS604G	SON-IN-LAW	19,000.00
15	KRISHNA DHAN SAHA	97/32, EAST SINTHEE ROAD, KOLKATA - 30	AVDPSS5685C	SON-IN-LAW	20,000.00
16	KAJAL RANI SAHA	SHYAMNAGAR SUPER MKT, 24 PGS (N)	AVDPS5657F	NICE	20,000.00
17	RATAN SAHA	SAHA PALLY, BARASAT, 24 PGS (N)	AVGPS8575D	GRANDSON-IN-LAW	19,000.00
18	SATYABAN SAHA	2, AIRPORT GATE, MOTILAL NEHERU MKT. KOLKATA - 81	AVDPS6075R	NEPHEW	15,000.00
19	SANKAR SAHA	65/4, DEBINBASH ROAD, KOLKATA - 74	AVDPS5710K	NEPHEW	17,000.00
20	GOURI RANI SAHA	65/4, DEBINBASH ROAD, KOLKATA - 74	ALHPS3680A	NICE	15,000.00
21	SABITRI PODDAR	2, AIRPORT GATE, MOTILAL NEHERU MKT. KOLKATA - 81	AKAP98977H	NICE	20,000.00
22	HARIPADA PODDAR	DURGANAGAR, BADRA, KOLKATA - 79	AKAP99948A	NEPHEW	19,000.00
23	SANKAR SAHA	BE-24, RABINDRA PALLY, KRISHNAPUR, KOLKATA - 101	ASXP58870R	NEPHEW	18,000.00
24	SUJIT SAHA	BE-24, RABINDRA PALLY, KRISHNAPUR, KOLKATA - 101	ASXP58815N	NEPHEW	19,000.00
25	HARADHAN SAHA	AD-387, RABINDRAPALLY, KESTOPUR, KOLKATA - 101	ASXPS2419N	BROTHER-IN-LAW	17,000.00
26	SANTI SAHA	65/4, DEBINBASH ROAD, KOLKATA - 74	AVGPS8433A	NEPHEW	17,000.00
27	CHANDAN KR. SAHA	AD-387, RABINDRAPALLY, KESTOPUR, KOLKATA - 101	AVDPSS5624C	NEPHEW	16,000.00
28	RAMA KANTA SAHA	AD-387, RABINDRAPALLY, KESTOPUR, KOLKATA - 101		BROTHER	13,000.00
				TOTAL	500,000.00

The assessee also filed complete particulars of return of income, PAN etc. in his paper books consisting of pages 1 to 92. The assessee claimed that immediate source of gift to the assessee his mother is out of gift received from these 28 donors who gifted the amount out of their savings on her 63rd birthday. All these donors are relatives of Smt. Haridasi Saha and these were never doubted by the AO. We find that the source of source is explained by the assessee as assessee's mother Smt. Haridasi Saha received gifts from these 28 persons, whose identity and creditworthiness is not in doubt as the gift amount is as low as and ranging between Rs.13,000/- and Rs.20,000/-. In term of the above, we are of the view that these amounts are explained amounts and accordingly, the gift received by assessee is explained. This appeal of assessee is allowed.

5. In the result, the appeal of assessee is allowed.

6. Order is pronounced in the open court on 14.09.2015

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Mahavir Singh)
Judicial Member

Dated : 14th September, 2015

Jd. Sr. P.S

Copy of the order forwarded to:

1. APPELLANT óShri Ranjit Kumar Saha, BD-53, Rabindrapally, Krishnapur, Kolkata-700 101.
2. Respondent ó ACIT, Circle-42, Kolkata
3. The CIT(A), Kolkata
4. CIT Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.