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% 01.04.2011

Present: Mr. A. Ghos, Advocate with Mr. Ashok Kumar, Advocate for the appellant.
Ms. Suruchi Aggarwal, Advocate for the respondent/Revenue.

+ IT6A 317/2011

The appellant/assessee is an individual engaged in the business of civil contract. She filed her return for the assessment year 2006-07 declaring an income of ₹ 2,67,229/-. During the assessment proceedings, the AO found that the assessee had received gifts of ₹ 7 lacs from four persons in the following manner:-

- (i) ₹ 3 lacs from Mr. Anuj Goel,
- (ii) ₹ 2 lacs from Mr. Akash Goel,
- (iii) ₹ 1 lac from Mr. Ramji Lal Garg,
- (iv) ₹ 1 lac from Smt. Kalawanti Garg

It was noticed that the appellant had also shown purported loans taken from various other persons. In this manner, total amount shown to have been received by the appellant from 17 persons was ₹ 17.30 lacs. The Assessing Officer made enquiries to find out the genuineness of the gifts as well as loans from the said persons and after the enquiries, he formed an opinion that the creditworthiness of the persons who had allegedly given the loan was not satisfied and, therefore, on this basis, the AO made addition of ₹ 17.30 lacs under Section 68 of the Act. The assessee went in appeal. The CIT (A) also affirmed the order of the AO after having



in-depth discussion of the entire evidence produced before him. In further appeal preferred by the assessee before the ITAT, facts remain the same as the Tribunal has also confirmed the findings of the AO as well as CIT (A) thereby sustaining the addition and dismissing the appeal.

The order of the authorities below reveal that each and every transaction is discussed threadbare and finding of facts which are recorded about the creditworthiness of those persons who allegedly gave gifts and loans to the assessee. The ITAT has inter alia affirmed the following findings:-

- (i) All the ~~gifts~~ gifts/loans are given in cash.
- (ii) The persons who have given gifts to the assessee are the minor sons of the assessee. The case set up by these two persons was that they were earning their income from giving tuitions. It has not been accepted on the ground that not only the two sons were minor and of tender age, even their educational qualifications were not sufficient to inspire the confidence that they would be rendering tuitions.
- (iii) None of the donors were maintaining bank balance of the amounts gifted to the assessee.



- (iv) One person namely Mr. Ramji Lal Garg was very aged about 82 years and the assessee had failed to show the sufficiency of funds available with that person. Situation was the same with respect to other persons.

In so far as loans given by 17 persons amounting to ₹ 17.30 lacs, these were also in cash; creditors were residing outside Delhi; none was produced before the AO even when asked, though affidavits of these persons were filed, in case of some of the persons, it was noticed that even their signatures differ; the addresses of all the persons which were given as per the affidavits, were that of the assessee herself.

We, thus, find that finding of facts on the basis of aforesaid and other consideration are recorded by the three authorities below which cannot be treated as perverse. No substantial question of law arises and this appeal is accordingly dismissed.


A.K. SIKRI, J.


M.L. MEHTA, J.

APRIL 01, 2011

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