

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : D : NEW DELHI  
BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER  
AND  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

ITA No.1791/Del/2011  
Assessment Year: 2004-05

Late Smt. Vineeta Singh,  
Through L/H of Mr. Tribhuwan Singh,  
C/o S.K. Bajaj, Advocate,  
106, Navyug Market,  
Ghaziabad.  
PAN: AIAPS3839B

Vs ACIT,  
Circle-2,  
Ghaziabad.

(Appellant)

(Respondent)

Assessee by	:	Shri C.S. Aggarwal, Sr. Advocate Shri Ravi Pratap Mall, Advocate.
Revenue by	:	Shri Jagdish Singh, Sr. DR
Date of Hearing	:	01.09.2020
Date of Pronouncement	:	02.11.2020

**ORDER**

**PER R.K. PANDA, AM:**

This appeal filed by the assessee is directed against the order dated 7<sup>th</sup> February 2011 of the CIT(A), Ghaziabad, relating to assessment year 2004-05.

2. Facts of the case, in brief, are that the assessee is an individual and derives income from profession as architect, income from house property and from other sources. Original return of income was filed declaring the total income at Rs.1,02,067/-. On 10<sup>th</sup> July 2003, a search was conducted by the CBI at the

premises of the assessee's husband Shri Tribhuvan Singh. During the said search, aggregate cash amounting to Rs.21,60,000/- was found, out of which an amount of Rs.21,53,000/- was seized, the details of which are as under:-

i)	From flat No.V-10, Satya Sadan, Chankyapuri, New Delhi. Cash found Rs.2,27,000/- but seized only Rs.2,20,000/-	Rs.2,20,000/-
ii)	From Bank locker No.9 with State Bank of Bikaner & Jaipur, NOIDA, UP, held jointly in the name of Shri Tribhuvan Singh and his wife, Smt. Vineeta Singh	Rs.3,00,000/-
iii)	From locker No.294 with Syndicate Bank, Mayur Vihar, Phase-I, New Delhi held in the name of Smt. Vineeta Singh, jointly with her domestic servant, Smt. Kalindi.	Rs.16,33,000/-
	Total	Rs.21,53,000/-

3. During the course of assessment proceedings, the AO noted from the information received from SP,CBI, New Delhi, vide letter No.2887/3/AC-2/2003/A-005 dated 6<sup>th</sup> October, 2004 that Shri Tribhuvan Singh has assets disproportionate to his known source of income to the tune of Rs.32,75,200/- which are mainly as under:-

i)	Cash recovered from house of Shri Tribhuvan Singh, 10, Satya Niketan, Chankyapuri, New Delhi.	Rs.2,27,000/-
ii)	Cash recovered from locker No.9 SBBJ, NOIDA, in the joint name of Shri Tribhuvan Singh & Smt. Vineeta Singh	Rs.3,00,000/-
iii)	Cash recovered from locker No.294, Syndicate Bank, Mayur Vihar, Delhi in the name of Smt. Vineeta Singh & her maid servant, Kalindi.	Rs.16,33,000/-
iv)	Difference in cost of construction of house (approx.)	Rs.10,30,000/-

4. On being asked by the AO to substantiate the cash found from the residence as well as lockers, the assessee filed the following details of addition made to the capital account, which are as under:-

1. Income over expenditure		89283.15
2. S.B. interest		4097.00
3. Dividend from companies		450.00
4. Gift given by parent		
(i) By cheque given on 11.7.2003	20000.00	
(ii) By cheque given on 24.11.03 when Vineeta Singh was on death bed	<u>50000.00</u>	70000.00
5. Rent received in respect of house on plot No.A-45, Sector-51, Noida		45000.00
6. Net payable to Tribhuvan Singh, husband		272352.76
7. Loan from Mrs. Shakuntla Devi (mother-in-law) written off		25000.00
8. Money of Shakuntla Devi (mother-in-law) kept with Late Mrs. Vineeta Singh		500000.00
9. Money of Anant Singh (son) kept with late Smt. Vineeta Singh		200000.00
10. Money of Mrs. Surabhi Chauhan (daughter) and her husband, who kept it whenever they visited India from USA		200000.00
11. Money given by Mr. BPS Chauhan (Samdhi) to start construction of his house in Indirapuram, Ghaziabad		100000.00
12. Money received as "Shagun" at wedding of son (Anant Singh)		500000.00
13. Money received as "Bhent" in "Rokn", "Sagai", "Tilak" and other marriage related events of son Anant Singh		125000.00
14. Money given by Mrs. Chitra Bhatia (elder sister) and her husband Mr. N.K. Bhatia for treatment		50000.00
15. Money given by Mrs. Shakuntla Devi (mother-in-law) for cancer treatment		50000.00
16. Money given by parents (Dr. Bal Krishna & Smt. Sushila Sood) for cancer treatment		250000.00
17. Cash gift recd. on the occasion of silver wedding anniversary		<u>75000.00</u>
	<b>Total</b>	<b><u>2556182.91</u></b>

5. The AO analysed the explanation given by the assessee in respect of the following source:-

i)	Rs.5,50,000	Cash kept/given by Mrs. Shakuntala Devi, mother-in-law.
ii)	Rs.2,50,000	Cash given by parents, Mrs. Sushila Sood & Dr. Bal Krishan
iii)	Rs.2,00,000	Cash given by Mr. Anant Singh, son
iv)	Rs.2,00,000	Cash given by Mrs. Surbhi Singh and her husband Mr. Akash Chauhan
v)	Rs.1,00,1000	Cash given by Mr. B.P.S. Chauhan
vi)	Rs.50,000	Cash given by Mrs. Chitra Bhatia & Mr. N.K. Bhatia
vii)	Rs.75,000	Cash received as gift on silver wedding anniversary
viii)	Rs.5,00,000	Cash received as shagun on son's wedding
ix)	Rs.1,25,000	Cash received as bhent, etc. on son's wedding
x)	Rs.50,000	Cash received as advance rent for A-45/51, Noida, from Mrs. Asha Sood.
xi)	Rs.60,000	Out of cash available in cash book of assessee and her husband.

6. However, the AO was not satisfied with the explanation given by the assessee holding the same to be afterthought and not substantiated with proper evidence. Accordingly, the AO made addition of Rs.21,10,000/- to the total income of the assessee.

7. Before the CIT(A), the assessee made elaborate submissions. However, the Id.CIT(A) also did not accept the submissions filed before him. So far as the cash found from the locker No.294 with Syndicate Bank, Mayur Vihar Phase-1, New Delhi is concerned, he held that since Shri Tribhuvan Singh is not a party there, the said cash of Rs.16,33,000/- can be treated as belonging to Smt. Vineeta Singh. He, accordingly, held that addition to that extent can be made in the name of the assessee on substantive basis. So far as the balance cash of Rs.5,20,000/- found

from the residence and locker No.9 with State Bank of Bikaner and Jaipur is concerned, he held that the same can be treated as belonging to Shri Tribhuvan Singh. After allowing a credit of Rs.60,000/- he held that balance amount of Rs.4,60,000/- should be added substantively in the hands of Shri Tribhuvan Singh and to delete the same from the hands of the assessee. In the order, he held that on fair estimate basis, the unaccounted cash of Shri Tribhuvan Singh is taken as Rs.4,60,000/- in place of nil by the AO. He accordingly directed the AO to re-allocate the income in the hands of the assessee and her husband. The relevant observations of the CIT(A) from para 5 onwards read as under:-

õ5. After having carefully considered, submission of the appellant and facts brought out by the AO in assessment order, my conclusions/observations on grounds taken in appeal are as under:

- (1) Grounds of appeal no. 1 & 7 are general in nature; ground of appeal no. 6 is consequential in nature.
- (2) Regarding grounds of appeal no. 2 & 3:

After carefully weighing the rival submissions and all relevant documents/material on record, I agree with all the findings and conclusions made by the AO, and, hence, all the findings available in the order can be taken as my conclusions as well. For the sake of brevity, these findings are not being repeated. However, I would add/modify these findings to following extent:

- (a) All the submissions and documentary evidences, especially affidavits are correctly held as -after-thoughtø explanations, merely to riggle out of the charge of unaccounted money found. All these affidavits cannot be given any credence, because these are from close relatives/friends, and, to that extent, these are self-serving documents, got prepared after the C.B.I. action.

If many of these cash portions were really the gifts; a document like gift deed or gift letter or at least, some scribbling to that effect, would have been found in house or in possession of Smt. or Sri T. Singh. But no such document was recovered during CBI search action.

Absence of any such document at the time of search, itself, proves that these are fabricated, later.

(b) Otherwise also, these explanations made by the appellant are full of loopholes and contradictions, as pointed out by the AO.

© Even during appellate proceedings, counsel has expressed inability to produce jewelers.

(d) Regarding affidavits of the close relatives/friends; the contentions, therein, are contradictory or unconvincing and are also against human probability. Contradiction are elaborately discussed by the AO.

(e) However, cash possession of Rs. 60,000/- should have been accepted by the AO; as this is a reasonable amount that assesee family can keep as balance-in-hand.

(f) Thus, out of cash found and seized of Rs. 21,55,000/-; Rs. 20,95,000/- is treated as income from undisclosed sources as per deemed provisions of section 69B. The AO's reference to Sec. 68 would stand modified to that extent.

In any case, wrong reference to the provisions does not vitiate the addition made on merits, [reliance on case of Guduthur Broths 40 ITR 298 (SC)] more so now in view of Sec. 292B.

(g) More important modification is that once cash found and seized was held as income from unfair means (this should be read as income from undisclosed sources); the cash should be treated to be belonging to both husband and wife. The AO's view of adding all such amounts, substantively in the hand of Smt. Vineeta Singh (through L/H her husband), and protectively in the hands of Sh. Tribhuvan Singh, is not justified. This is, because the AO has himself rejected all the contentions put forward by assesee, in respect of source of cash money. Once that is done; automatically the contention of the wife, Smt. Vineeta Singh (now deceased), owning up all the cash should have been rejected. After all, it is not the claim of assesee that she earned these unaccounted cash through her profession!!

The question arises afresh as to although exact source of unaccounted cash income, is not known, either in the hands of assesee or her husband; how much cash can be ascribed to whom?

In absence of any first-hand questioning by CBI during search, or any clinching evidence brought on record so far; the possession can be ascribed according to the place where cash was found.

Locker no. 294, Syndicate Bank is in the name of Smt Vineeta Singh jointly with her domestic servant. As sh. Tribhuwan Singh is not a party there; this

cash of Rs. 16,33,000/- can be treated as belonging to Smt. Vineeta Singh. Addition to this extent can be made in name of assessee on substantive basis.

Rest of the cash i.e. Rs. 5,20,000/- found from residence and from locker no. 9, SBBJ, can be treated as belonging to/pertaining to Sh. Tribhuvan Singh. Giving a credit for cash balance-in-hand of Rs. 60,000/-; addition of Rs. 4,60,000/- should be made substantively in the hands of husband, Sri Tribhuvan Singh.

Therefore, on fair estimate basis; the possession of unaccounted cash by Sri Tribhuvan Singh is taken at Rs. 4,60,000/-, in place of Nil by the AO.

There would be reallocation of income in the hands of assessee and her husband, to the extent, discussed as above.

(3) Regarding grounds of appeal no. 4 & 5:

I do not find that AO is being guided merely by CBI's observations. The AO has considered the allegations made by CBI but has applied his own mind and reached his own findings. There is no indication of any influence and pressure of CBI.

As far as use of words "unfair means" are concerned; it is clear that what AO implies is that income has been earned from undisclosed/unknown sources, as per the import of deeming provision of Sections 68 to 69D. It is not within the purview of AO to link the money to any corrupt practices; because that is the subject-matter of CBI Court, which is still in process, especially when this juncture; there is nothing on record to specifically link the money found to any particular activity/source.

Thus, AO's use of words "Income from Unfair Means" is to be treated as "Income from undisclosed sources".

Subject to above, grounds of appeal no. 4 & 5 are rejected.

8. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds:-

1. That the order of Learned Commissioner (Appeals), Ghaziabad (U.P.) is erroneous and illegal on the facts and under the circumstances of the case.

2. The Learned C.I.T(A) erred in confirming the observations and findings of the A.O. so as to reject the sources of following funds aggregating to Rs.20,93,000/- as found in possession of the deceased appellant at the time of search, while treating the same to be unaccounted money without assigning his independent, proper and cogent reasons for the same under the circumstances of the case:-

Break-up (Funds) Found

Cash found from flat No. V-10, (Residence) Satya Sadan, Chanakayapuri, N. Delhi,	220000	
Cash found from bank Locker No. 9 with State Bank of Bikaner & Jaipur Noida, U.P.	<u>300000</u>	
	520000	
Less:-Cash balanced as per account book (Accepted)	60000	46000
Cash found from Locker No. 294 with Syndicate Bank, Mayur Vihar, Phase-I, New Delhi		<u>1633000</u>
		2093000

Break-up (Sources)

Rs 5,50,000/= Cash kept/ given by Mrs Shakuntala Devi, mother-in-law	
Rs.2,50,000/= Cash given by Parents Mrs Sushila Sood & Dr Bal Krishna	
Rs.2,00,000/= Cash given by Mr Anant Singh,( son)	
Rs 2,00,000/= Cash kept by Mrs Surabhi Singh & her husband Akash Chauhan (Daughter & Sons- in-law)	
Rs 1,00,000/= Cash given by Mr B.P.S. Chauhan (For Construction)	
Rs 50,000/= Cash given by Sister Mrs Chitra Sood & her husband Mr N.K. Bhatia(Gift)	
Rs 75,000/= Cash received as gift on the Silver Wedding Anniversary	
Rs.5,00,000/= Cash received as õShagunö on sonø wedding	
Rs.1,25,000/= Cash received as õBhentö etc on sonø engagement	
2050000	

(The disputed amount would be Rs. 20,50,000/- as noted above as against wrongly taken at Rs. 20,93,000/- by the Ld. C.I.T (A)).

3. That on facts brought on record with evidences the Learned C.I.T(A) ought to have considered the merits of the case afresh and in right perspective but on the contrary he simply relied upon the findings of A.O. under the circumstances of the case.

4. That the Ld. C.I.T. (A) erred in maintaining and sustaining following addition of Rs. 16,33,000/- to the income of the deceased appellant as õIncome from undisclosed sources õon facts and under the circumstances of the case:-

Cash found from Locker No.-294 with Syndicate Bank, Mayur Vihar, Phase-I, New Delhi	1633000
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5. That learned C.I.T(A) erred in confirming the addition of Rs. 16,33,000/- as made by A.O. in the hands of the deceased appellant and estimating the addition of Rs. 4,60,000/- on Substantive Basis though made on Protective basis by A.O. in the hands of her husband Mr. Tribhuwan Singh and those are quite arbitrary and excessive on facts and under the circumstances of the case.



6. That the appellant craves leave to add, or amend any ground of appeal at the time of hearing.ö

9. The Id. Counsel for the assessee submitted that the AO while framing the assessment had made an aggregate addition of Rs. 21,10,000/- which represents the sum found at the time of search by the CBI on 10.07.2003 from the residential premises of the assessee's husband, his locker and the assessee's locker. Out of the aforesaid addition made, on appeal the learned CIT(A) had deleted the addition of Rs. 5,20,000/- on the ground that the aforesaid sum is a sum found from the locker of the assessee's husband and at their residence and as such no addition could be made in her hands.

10. He submitted that against the aforesaid order of learned CIT(A) the assessee is in appeal; whereas no appeal has been filed by the revenue against the deletion of the said sum of Rs. 5,20,000/-. In view of the above there remains no justification for the learned CIT(A) to have rejected the explanation furnished by the assessee in respect of a sum found, which all aggregated to Rs. 21,10,000/-. To explain the aforesaid contention, he submitted that the assessee had given the sources of funds out of which Rs. 21,10,000/- had been found which included Rs. 5,20,000/- which stood deleted by the learned CIT(A). In view of the peculiar fact he contended that the explanation given by the assessee could not have been rejected in part, as the necessary implication remained that the explanation given explaining the source of sum could not have been rejected in part.

11. So far as the balance amount is concerned, the Id. Counsel submitted that the perusal of the order of the AO would show that he got swayed mainly by the fact that there had been a search carried out by the CBI and as such the explanation tendered by her was to only accommodate her husband and the sum found and seized had been acquired by unfair means by her and her husband. He submitted that in the absence of any evidence that the assessee had been indulging in any activity by acquiring sums by unfair means, the findings are per-se perverse and arbitrary. Referring to the order of the Tribunal in case of husband of the assessee, he submitted that in so far as the assessee's husband is concerned, no sum had been found from him as belonging to him since the Tribunal has already held that the assessee's husband Shri Tribhuvan Singh had no unaccounted money.

12. The Id. Counsel for the assessee submitted that the observation of the AO that there is a general tendency of near and dear ones to sympathise and come forward in times of crises, is hypothetical and is a general statement. He submitted that there is no such presumption in law and in fact the assessee had produced all such persons before the CBI in as much as the AO had not required the assessee to produce any of the witness from whom the sums were received in cash. He submitted that the AO in the order had stated that he had required the assessee to produce (i) Smt. Shakuntla Devi, mother in law of the assessee and (b) Smt. Sushila Sood, mother of the assessee.

13. He submitted that both the aforesaid persons had been examined by the CBI and the copy of their statements have been placed on record at pages 131 - 132 and Pg. 135 - 136 of the Paper Book. He submitted that both could not be produced before the AO because of their highly advanced age. It was pleaded that both could be examined by issuing commission. However, the AO instead of having examined them on commission, which he was obliged to do so, did not take any such step but arbitrarily brushed aside the statement recorded by the CBI.

14. The Id. Counsel for the assessee referring to the statement of Smt. Sushil Sood recorded on 20.10.2004 and that of Smt. Shakuntla Devi submitted that if the two statements are read, there is no evidence to show that the testimony could have been rejected and that too without any material. He submitted that the finding of the AO that there is a general tendency of near and dear ones to sympathise and come forward in times of crises, is highly unfounded and is arbitrary. Referring to the decision of Honøble Allahabad High Court in the case of Sheo Narain Duli Chand vs. CIT reported in 72 ITR 766, he submitted that it has been held that there is no presumption that witnesses appearing for an assessee come forward to give false evidence to oblige the assesseeø He submitted that the aforesaid observation of the Honøble Chief Justice when considered in the light of the finding of the learned AO, it is evident that the entire conclusion of the learned AO in his order while rejecting the explanation furnished by the assessee is based only on the two factors namely that the sums found is allegedly unaccounted income both of the

assessee and her husband is arbitrary, and secondly upon the presumption that there is a general tendency of near and dear ones to sympathise and come forward in times of crises; whereas there is no such presumption.

15. Referring to the decisions of the Honøble Supreme Court in the case of Dhirajlal Girdharlal vs. CIT, 26 ITR 736 (SC) and Omar Salay Mohamed Sait, 37 ITR 51, he submitted that the Honøble Supreme Court in the above decisions has held that any order is vitiated in law where such an order is arrived partly on relevant material and partly on irrelevant material. The Id. Counsel submitted that the assessee had explained the source of the sums found in cash the details of which are as under:-

Sl. No.	From whom cash was received	Relationship	Amount
1.	Smt. Shakuntla Devi	Mother-in-law	Rs. 5,50,000/-
2.	Mrs. Sushila Sood & Dr. Bal Krishan	Parents	Rs. 2,50,000/-
3.	Mr. Anant Singh	Son	Rs. 2,00,000/-
4.	Mrs. Surbhi Singh & her Husband Mr. Akash Chauhan	Daughter and son-in-law	Rs. 2,00,000/-
5.	Mr. B.P.S. Chauhan	Father-in-law of daughter	Rs. 1,00,000/-
6.	Mrs. Chitra Bhatia and Mr. N.K. Bhatia	Sister & brother-in-law	Rs. 50,000/-
7.	Cash gifts shown to have been received on silver wedding anniversary		Rs. 75,000/-
8.	Bhent on sonø engagement & shagun received on his marriage of Rs. 125000/- + 500000/-		Rs. 6,25,000/-
9.	Cash available with the assessee and her husband		Rs. 60,000/-

16. He submitted that various evidences submitted by the assessee were completely brushed aside by the AO in an arbitrary manner and that too without

bringing any material on record. He submitted that it is an admitted fact that the assessee was suffering from cancer and other co-related diseases and the sum had been given for her treatment by her mother who had duly been confirmed, by her mother-in-law and also certain amount provided by her son who had recently got married. However, the AO in complete disregard to the evidences filed before him, rejected the submission of the assessee.

17. So far as the funds available at home is concerned, he submitted that the finding of the AO on this issue are not only erroneous, but, is based on no evidence inasmuch as in the hands of her husband, Shri Tribhuvan Singh, additions made by the AO stood deleted and no addition has been sustained in his hand.

18. He submitted that a perusal of the assessment order shows that the AO had misdirected himself in making the addition. The assessee had led documentary evidence in support of each of the explanation furnished by the assessee duly supported by affidavit and confirmation which the AO rejected merely on hypothetical consideration and without any evidence. He submitted that the initial burden was discharged by the assessee and the AO had not proceeded to rebut the said evidence by leading any positive material.

19. So far as the allegation of the AO at page 10 of the assessment order that the assessee had failed to produce Smt. Shakuntla Devi who was aged about 97 years was misconceived inasmuch as Smt. Shakuntla Devi at the relevant time was not well and was aged and could not climb stairs. The request of the assessee to

examine her on commission was not accepted by the AO. Similarly, mother of the assessee Smt. Sushila Sood aged 86 years could not have appeared before the AO because of old age complications and here also the AO was requested that she should be examined on commission. However, no steps were taken by the AO to examine any of the persons despite the fact that the assessee had offered them to be examined on commission.

20. The Id. Counsel submitted that the CBI had also examined the mother of the assessee Smt. Sushila Sood on 20.10.2004, Shri Anant Singh, son of the assessee, Smt. Shakuntla Devi, mother-in-law of the assessee and Smt. Kalindi, domestic help . Their statements are placed at paper book pages 131-138. He submitted that the CBI has drawn no adverse inference against the assessee. He submitted that under these circumstances, the AO should not have rejected the explanation given by the assessee regarding the source of funds available at the residence. So far as the argument of the Revenue that substantial cash was kept at home instead of keeping the money at bank, he submitted that monies were more safe at home than in the locker and there is no prohibition in law or otherwise to keep the money in bank especially when the assessee was suffering from serious disease like cancer. He accordingly submitted that the balance amount of Rs.15,90,000/- should also be deleted.

21. The Id. DR, on the other hand, relied on the order of the AO and the CIT(A). He submitted that the AO, after due examination of each and every

explanation given by the assessee regarding each source has come to the conclusion that all these evidences are nothing, but, afterthought. Further, the various affidavits as well as confirmations filed by the assessee have no credence because they are all very close relatives and friends and are self serving documents. So far as the argument of the ld. Counsel that the ld.CIT(A) has deleted the amount of Rs.5,20,000/- is concerned, the ld. DR, referring to the order of the Tribunal in the case of the husband, namely, Shri Tribhuvan Singh vs. ACIT, vide ITA No.1790/Del/2011, order dated 17<sup>th</sup> August, 2015, drew the attention of the Bench to para 8 of the order and submitted that the Tribunal has held that the amount of Rs.4,60,000/- should be added in the hands of Smt. Vineeta Singh, who had owned up this money as belonging to her. Therefore, the ld. Counsel cannot say that the CIT(A) has deleted the addition of Rs.5,20,000/- and, therefore, to that extent no addition is required. He accordingly submitted that the entire amount of Rs.21,10,000/- should be confirmed and the grounds raised by the assessee should be dismissed.

22. We have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find, the AO, in the instant case, completed the assessment determining the total income of the assessee at Rs.22,12,070/- as against the returned income at Rs.1,02,070/- wherein he made an addition of Rs.21,10,000/- being the cash found from the

residence and locker of the assessee during the course of search conducted by the CBI on 10<sup>th</sup> July, 2003. The explanation of the assessee that the amount so found at the locker and the residence was given to her by her mother, mother-in-law, son, daughter and son-in-law, father-in-law of the daughter, sister and brother-in-law, etc., was not accepted by the AO. Similarly, certain amounts received as cash gift on silver wedding anniversary, amount received at the engagement and marriage of son, etc., was also not accepted by the AO. The item-wise explanation given by the assessee for the source and rejection of the same by the AO can be summarized as under:-

s. N O.	Amount	Amount shown by assessee in the name of	Explanation given by assessee	AO's finding
(1)	(2)	(3)	(4)	(5)
1	Rs. 5,50,000	Smt. Shakuntla Devi	She regularly withdrew cash from her pension account and gave it to the assessee. She sold her old jewellery. She also had agricultural and rental income.	She sold jewellery on 16.06.2003 but did not mention it in her confirmation dated 20.07.2007. In her statement before CBI she had stated that she had no income other than pension Smt. Shakuntla Devi went to Court for swearing of affidavit and for giving statement before CBI at New Delhi. But she did not appear before the AO. The facts relating to Smt. Shakuntla Devi remained un-established.
2	Rs. 2,50,000	Mrs. Sushila Sood & Dr. Bal Krishan	Old jewellery sold and cash given to the assessee.	The fact of sale of jewellery was not mentioned in confirmation letter and statements given to CBI. They went to Court to swear affidavit and to give statement before CBI, but did not appear before the AO. The facts relating to them remained un-established.



3	Rs. 2,00,000	Mr. Anant Singh	He withdrawn money from various bank accounts through ATM and kept it for his cash needs.	Very small amounts were withdrawn by him. If a son has to give money to his parents, he would withdraw a lump sum amount. Moreover, a person who keeps on taking loan from his parents from year to year would be contributing anything for household expenses, is beyond human probabilities.
4	Rs, 2,00,000	Mrs, Surbhi Singh and her husband Mr. Akash Chauhan	On their visits to India, they brought foreign exchange and traveller cheques. They encashed it in India and after spending they left the balance money with the assessee.	It was not possible to get converted lesser amount on various visits in Indian currency and thereafter leave a bigger amount with the assessee. ]
5	Rs. 1,00,000	Sh. BPS Chauhan	He gave money to the assessee for construction of house on his plot in Indirapuram, Ghaziabad and handed over Rs. 1 lakh in cash for the purpose.	The assessee did not mention this in her earlier statement before CBI and in written replies before AO. She mentioned this only in the subsequent statement before CBI. It is not possible that a person would give someone money for construction' even before getting transferred the plot of land in his name.
6	Rs. 50,000	Smt. Chitra Bhatia and Sh. N.K Bhatia	They gave money to assessee for treatment.	AO found discrepancies and contradictions in the version of husband and wife.
7	Rs. 75,000	Silver wedding anniversary	Cash gifts were received and after payment of expenses Rs. 75,000/- was kept for furnishing of new house at Noida.	A paltry sum of Rs. 5,000/- was spent on party at Noida Golf Club.
8	Rs. 6,25,000	Engagement & Shagun	The amount was received from guests and relatives at the time of ceremonies and functions related to the son's wedding.	Looking to the status of the family, the expenditure claimed by the assessee is much below the level of expenses expected at such an occasion. The amount shown is unrealistic.
9	Rs. 60,000	Assessee and her husband	The Ld. CIT(A) has accepted this amount.	

23. We find, in appeal, the Id.CIT(A) deleted an amount of Rs.5,20,000/- holding that cash to the extent of Rs.60,000/- stands explained and the amount of Rs.4,60,000/- should be added substantively in the hands of the husband Shri Tribhuvan Singh. We find, against this order of the CIT(A), the Revenue is not in appeal before the Tribunal. Therefore, we find some force in the argument of the Id. Counsel that out of the total addition of Rs.21,10,000/-, an amount to the extent of Rs.5,20,000/- should be accepted as explained. Although the Tribunal in the case of husband of the assessee has held that the amount of Rs.4,60,000/- belonged to the wife of the assessee while deleting the addition in the hands of Shri Tribhuvan Singh, husband of the assessee, however, in absence of any appeal filed by the Revenue against the order of the CIT(A) deleting the amount of Rs.5,20,000/-, we find force in the argument of the Id. Counsel that the addition to the tune of Rs.5,20,000/- stands deleted and, therefore, no adverse view should be taken.

24. So far as balance Rs.15,90,000/- is concerned, we do not find any force in the argument advanced by the Id. Counsel for the assessee. A perusal of the explanation given by the assessee before the AO while explaining the source of cash found shows that the assessee has tried to explain the source being amount received from different family members, close relations and amount received at the time of silver wedding anniversary and amount received at the time of engagement and marriage of her son. The assessee neither at the level of the AO nor before the

CIT(A) was able to produce the so-called jewelers to whom the mother-in-law and mother of the assessee has sold jewellery. Further, we find some force in the argument of the Id. DR that if some cash portions were real gift, at least some document like gift deed or gift letter or some scribbling to that effect would have been found in the house or in possession of the assessee or her husband. However, nothing of that sort was found. The so-called long list containing names of different persons who had given gifts at the time of engagement or marriage of the son or at the time of silver wedding anniversary cannot be believed in absence of any iota of evidence found at the time of search and, therefore, we concur with the finding of the CIT(A) on this issue that this is nothing, but, an afterthought. The various decisions relied on by the Id. Counsel for the assessee are distinguishable and not applicable to the facts of the present case. The various affidavits and confirmations filed from various close relatives, in our opinion, are nothing but mere self serving documents just to accommodate the assessee to explain the source. It is also strange that not a single transaction is through banking channel and everyone has given cash only to the assessee either for her treatment or for safe custody which is unbelievable. In this view of the matter and in view of the detailed reasoning given by the CIT(A) on this issue, we do not find any infirmity in the order of the CIT(A) sustaining the addition of Rs.15,90,000/-. Thus, in sum and substance, the assessee gets relief of Rs.5,20,000/- and the balance amount of Rs.15,90,000/- sustained by the CIT(A) is confirmed. The grounds raised by the assessee are accordingly partly allowed.

25. In the result, the appeal filed by the assessee is partly allowed.

The decision was pronounced in the open court on 02.11.2020.

Sd/-

(KULDIP SINGH)  
JUDICIAL MEMBER

Sd/-

(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 2<sup>nd</sup> November, 2020.

dk

Copy forwarded to

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi