IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 853 OF 2016

Pr. Commissioner of Income Tax-27 .. Appellant

v/s.

Ms. Sangeeta M. Sahani .. Respondent

Mr. N.C. Mohanty for the appellant
None for the respondent

CORAM : AKIL KURESHI &
M.S. SANKLECHA, J.J.

DATED : 11th DECEMBER, 2018.

P.C.

1. The Revenue is in appeal against the judgment of the Income Tax Appellate Tribunal ("the Tribunal" for short) dated 12.06.2015.

2. Following question is presented for our consideration :-

> *"Whether on the facts and in the circumstances of the case and in law, the Tribunal was right in holding the amount of Rs.3,01,73,975/- (6,00,000 US$) received by the assessee from her brother residing in USA was gift without appreciating the fact that as per USA tax laws the donor was compulsorily required to intimate the same to the concerned authorities in USA in specified form No.709 and the donor had failed to furnish this*

vital evidence to substantiate that the transaction constitute gift?"

3. The issue pertains to the Assessment Year 2009-10. The respondent assessee is an individual. In the return filed for the subject assessment year, the respondent assessee had shown gift of a sum of Rs.3.01 crores (rounded off) equivalent to 6,00,000 US dollars, received by her from her brother, residing in USA. The Revenue did not accept this transaction as a gift and taxed the same in the hands of the assessee as income from other sources. The Tribunal by the impugned judgment dismissed the Revenue's appeal and confirmed the decision of the CIT(A), who had reversed the order of the Assessing Officer. The Tribunal noted that the assessee had in response to the notices, attended the office of the Revenue authority and filed necessary details with respect to the gift. The gift was given by the brother of the assessee. The identity of the donor, creditworthiness and genuineness of gift were established. In that view of the matter, the Tribunal was of the opinion that the Assessing Officer could not have invoked Section 68 of the Income Tax Act,1961. The Tribunal noted that the assessee had pointed out that she was unmarried and lived with her aged mother and other relatives. The donor i.e. her brother was an NRI since 26

years. Initially he had worked at Dubai and thereafter, permanently settled in USA. He was working as a marketing manager in a company. The gift deed was also produced.

4. From the record, it can thus be seen that the entire issue is based on appreciation of facts. Undisputed facts are that the gift was made by the brother of the assessee. The gift was through banking channel and the gift deed was also produced. The Revenue has without producing any material doubted the genuineness of the gift. The Tribunal correctly did not entertain the Revenue's appeal. No question of law arises.

5. The tax appeal is dismissed.

(M.S. SANKLECHA, J.) **(AKIL KURESHI, J.)**