

## Sec. 68 additions confirmed in absence of proof showing creditworthiness of father to give huge cash gift to his son

**Summary – The Bangalore ITAT in a recent case of Sunil Ramakrishna, (the Assessee) held that where assessee was not able to bring on record any material evidence to prove creditworthiness and capacity of his father to advance huge amount of cash gift from any known source of income, impugned addition made under sec. 68 by authorities below was to be confirmed**

### Facts

- The assessee, an individual engaged in business, filed his return of income declaring certain taxable income.
- In course of assessment the Assessing Officer opined that the assessee was not able to establish the creditworthiness and capacity of his father to give the cash gift of Rs. 10.50 lakhs to the assessee. He thus brought said amount of unexplained gift to tax in the assessee's hands.
- The Commissioner (Appeals) upheld the order passed by Assessing Officer.
- On second appeal:

### Held

- In appellate proceedings the assessee was not able to bring on record any material evidence to prove, either the genuineness of the transaction of the aforesaid gift transaction by establishing the creditworthiness and capacity of his father to make the gift from any proved source of income to controvert the findings of the authorities below. The assessee has failed to establish the creditworthiness and capacity of his father to advance such a huge cash gift from any known or established source of income. This factual view draws support from the fact that the assessee's father was never an income tax assessee and did not apparently have or operate any regular bank account.
- The assessee contends that the aforesaid gift from father to the assessee cannot be taxed in the hands of the assessee in terms of section 56(2)(viic) of the Act. On a careful perusal of section 56(2)(viic) and the proviso thereto, and the factual matrix of the case on hand it is opined that the provisions thereof would not apply as the assessee has failed to prove with material evidence that he had actually received a cash gift of Rs. 10.50 lakhs from his father (*i.e.* relative); apart from the claim made to that effect. While it is true a gift was filed in this regard before the Assessing Officer, the same is only a self-serving documents benefit of corroboration by any material evidence to establish both the creditworthiness and capacity of the father to give a cash gift of Rs. 10.50 lakhs and in the absence of any corroborative material evidence in this regard, the impugned orders of

the authorities below on this issue are upheld and the assessee's claims, being bereft of any merit, are to be rejected.

- In the result, the assessee's appeal is dismissed.