

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'SMC' BENCH, KOLKATA****Before Shri P.M. Jagtap, Accountant Member****I.T.A. No. 1607/KOL./2014
Assessment year: 2006-2007*****Assistant Commissioner of Income Tax,.....Appellant
Circle-30, Kolkata,
2, Gariahat Road (South),
Kolkata-700 068******-Vs.-******Supriti Das Gupta,.....Respondent
18/64, Dover Lane, Kolkata-700 029
[PAN: ACYPD 1437 E]*****Appearances by:***Shri P.K. Mondal, Addl. CIT, D.R., for the Department
Shri Akkal Dudhewala, FCA, for the assessee*

Date of concluding the hearing : February 19, 2018

Date of pronouncing the order : February 23, 2018

O R D E R

This appeal is preferred by the Revenue against the order of Id. Commissioner of Income Tax (Appeals)-XIV, Kolkata dated 10.03.2014.

2. The assessee in the present case is an individual, who filed his return of income for the year under consideration on 31.10.2006 declaring total income of Rs.7,32,173/-. From the balance-sheets filed along with the said return, the Assessing Officer found that the assessee was the owner of two flats. He accordingly required the assessee to furnish the details of one flat of the value of Rs.1,27,900/- as reflected in the balance-sheet. Since the assessee failed to furnish the said details as required by the Assessing Officer, the Assessing Officer took the net annual value of the said flat at Rs.2,40,000/- and after allowing deduction @ 30%, the balance amount was brought to tax by him in the hands of the assessee under the head "income from house property".

3. The addition made by the Assessing Officer to his total income under the head "income from house property" was challenged by the assessee in the appeal filed before the Id. CIT(Appeals) and after considering the submissions made by the assessee as well as the material available on record, the Id. CIT(Appeals) deleted the said addition for the following reasons given in paragraph no. 3.2 of his impugned order:-

"3.2. I have carefully considered the submission put forth on behalf of the Appellant, along with the supporting details/documents furnished, perused the facts of the case, including the observation of the Assessing Officer and other material on record. I find justification in the arguments put forward on behalf of the Appellant.

The issues raised by the Assessing Officer, in his order, including details of Flat (b/f) of Rs.1,27,900/- which, in fact, is towards Registration Charges, purchased deed of the flat, which also details the location and whether the property is let out and amount received as rent, are satisfactorily addressed by the Appellant, with supporting, in her submission.

It is also argued that the addition of Net Annual Value of Rs.20,000/- per month, is made arbitrarily and on estimate basis without considering the facts of the house property, and is, in itself, a figment of imagination.

On going through the submission of the Appellant along with supporting documents furnished, arguments put forward and perusing the facts of the case, including the observations and conclusion of the A.O. in the impugned assessment order, I am inclined to agree with the contention of the Appellant that the A.O. was in undue haste to complete the case and was unreasonable in considering one and the same property as more than one property without any justification and also to imagine the Net Annual Value of Rs 20,000/- per month for the self occupied house property of the Appellant where the Net Annual Value is 'NIL'.

4. Aggrieved by the order of the Id. CIT(Appeals), the Revenue has preferred this appeal before the Tribunal on the following ground :-

"On the facts and circumstances of the case, the Id. CIT(A) has erred in accepting new documents from the assessee at the appellate stage and not giving an opportunity to Assessing Officer to verify the documents, in violation of Rule 46A of the Income Tax Rule".

5. I have heard the arguments of both the sides and also perused the relevant material available on record. It is observed that the impugned order of the Id. CIT(Appeals) giving relief to the assessee on the issue under consideration is challenged by the Revenue by raising a specific ground that there was a violation of Rule 46A of the Income Tax Rules by the Id. CIT(Appeals), inasmuch as he allowed relief to the assessee by relying on the new documentary evidence without giving an opportunity to the Assessing Officer to verify the same. In this regard, the Id. D.R. has invited my attention to page no. 5 of the impugned order of Id. CIT(Appeals) to point out that additional evidence in the form of a copy of Purchase Deed of the house property and receipt of the Bangalore Registration Office was filed by the assessee for the first time before the Id. CIT(Appeals) and the same was relied upon by the Id. CIT(Appeals) to decide the issue in favour of the assessee without giving any opportunity to the Assessing Officer to verify the same. However, as rightly contended by the Id. counsel for the assessee, even though the said documentary evidence was filed by the assessee for the first time before the Id. CIT(Appeals), the issue was decided by the Id. CIT(Appeals) mainly on the basis of two balance-sheets filed by the assessee along with his return of income. He has invited my attention to the copies of the said two Balance-sheets, one belonging to the proprietary concern of the assessee and the other of the assessee as individual, to point out that the value of flat at Bangalore owned by the assessee was duly reflected in the balance-sheet of the proprietary concern of the assessee while the registration charges of Rs.1,27,900/- paid on the said Bangalore flat were duly and separately shown in the individual balance-sheet of the assessee. A perusal of the said two balance-sheets filed by the assessee along with his return of income for the year under consideration thus clearly shows that there was only one flat at Bangalore, which was co-owned by the assessee and going by the clear description given in his individual balance-sheet, the amount of Rs.1,27,900/- was paid by the assessee for registration charges for the said Bangalore flat. As rightly observed by the Id. CIT(Appeals),

the inference drawn by the Assessing Officer about the ownership of the second flat of the assessee thus was totally arbitrary and without any base and even the addition made by the Assessing Officer by adopting the annual value was totally unreasonable. In my opinion, the relief allowed by the Id. CIT(Appeals) to the assessee on this issue thus was based on the balance-sheets filed by the assessee along with his return of income itself and there is no merit in the stand of the Revenue that there was any violation of Rule 46A of the Income Tax Rules by the Id. CIT(Appeals). I, therefore, find no infirmity in the impugned order of the Id. CIT(Appeals) giving relief to the assessee on the issue under consideration and upholding the same, I dismiss this appeal filed by the Revenue.

6. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 23rd day of February, 2018.

Sd/-
(P.M. Jagtap)
Accountant Member
Kolkata, the 23rd day of February, 2018

- Copies to :*
- (1) **Assistant Commissioner of Income Tax,
Circle-30, Kolkata,
2, Gariahat Road (South),
Kolkata-700 068**
 - 2) **Shri Supriti Das Gupta,
18/64, Dover Lane, Kolkata-700 029**
 - (3) *CIT(Appeals)-XIV, Kolkata,*
 - (4) *CIT- , Kolkata,*
 - (5) *The Departmental Representative*
 - (6) *Guard File
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By Order

*Senior Private Secretary,
Head of Office/DDO,
Income Tax Appellate Tribunal
Kolkata Benches, Kolkata*