

आयकर अपीलीय अधिकरण, पुणे न्यायपीठ “बी” पुणे में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH “B”, PUNE

श्री डी. करुणाकरा राव , लेखा सदस्य  
एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष

BEFORE SHRI D.KARUNAKARA RAO, AM  
AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No.104/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2013-14

Mr. Chandrakant Gulabrao Borde,  
D.Y. Pandit Adv. 1187/10, Shivaji  
Nagar, Pune-411 005  
PAN : AAPPB2873F

.....अपीलार्थी / Appellant

Vs.

The Income Tax Officer,  
Ward 13(1), Pune

.....प्रत्यर्थी / Respondent

अपीलार्थी की ओर से / Appellant by : Smt. Deepa Khare & Shri D.Y. Pandit  
प्रत्यर्थी की ओर से / Respondent by : Shri Sudhendu Das

सुनवाई की तारीख / <b>Date of Hearing : 11.09.2018</b>	घोषणा की तारीख / <b>Date of Pronouncement: 05.10.2018</b>
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**आदेश / ORDER**

**PER D. KARUNAKARA RAO, AM :**

This appeal is filed by the Assessee against the order of CIT(A)-8, Pune, dated 23.10.2017 for the Assessment Year 2013-14.

2. Grounds raised by the Assessee read as under:

“1. On the facts and circumstances of the case, the reassessment proceedings u/s.147 being initiated in absence of material showing escapement of income in the hands of the appellant is void and may kindly be cancelled. The reassessment proceedings initiated purely to verify the claim of exception in absence of tangible material and to make enquiries being invalid may kindly be cancelled.

2. The learned CIT(A) erred in law and on facts in confirming addition of Rs.75,00,000/- under head income from other sources under section 56 of the Income Tax Act, 1961.

3. The leaned CIT(A) erred in law and on facts in confirming addition of Rs.5,00,000/-received Baroda Cricket Association under the head income from Profession under section 28 of the Income Tax Act,1961.

4. *The learned CIT(A) failed to appreciate that Circular No.447 dated Jan 22, 1986 was effective when the return for the year under consideration was filed, which provided that impugned amounts will not be liable to tax.*

5. *The appellant craves to add, alter, modify or substitute any ground of appeal at the time of hearing."*

2.1 Assessee also raised Additional ground and the same reads as under:

*"Whether on the facts and the circumstances of the case, the order of reassessment u/s.147 is valid in law when reasons recorded were not provided to the assessee and the opportunity to raise objections was not allowed to the assessee. The reassessment proceedings therefore become invalid in law for not complying with the mandatory procedure as laid down by Supreme Court in GKN Driveshaft (India) Ltd. Vs. ITO 259 ITR 19.*

*It is respectfully submitted that the above ground of appeal is purely legal in nature and goes to the matter may kindly be admitted and decided on merits."*

3. Briefly stated relevant facts of the assessee include that the assessee is a former cricketer, worked with M/s.Cooper Engineers Ltd., Chinchwad. Assessee reported earning of income from Honorarium from BCCI, rental income, income from other sources and capital gains etc. Assessee claims that he was never a professional cricketer and he was only a sportsman. During the year under consideration, assessee received (1) Rs.75 lakhs from Board of Control for Cricket in India (BCCI) as One-Time Receipt (OTB)/award and claimed the same as exempt in view of CBDT Circular No.447 of 1986 dated 22-01-1986; and also (2) Rs.5 lakhs from Baroda Cricket Association (BCA) as OTB/award in recognition of his achievements in Indian Cricket.OTB/awards are given to the Sport persons/former players/their widows, as the case may be, as decided by the working committee of the BCCI/BCB. It is a voluntary payment and is paid to facilitate the contribution of players of the past. The same are not taxable receipts. Assessee received the same, during the year, when the assessee is not a cricketer and leave alone, the professional cricketer. He is merely an ex-cricketer of India.

Assessee filed the return of income and the same was accepted u./s.143(1A) of the Act on 27-10-2014. Subsequently, AO recorded the reason for re-opening of the said assessment. The reasons indicate that the issue of notice is needed *“to verify the exempt income claimed by the assessee’*. Eventually, in the assessment, the AO made addition of Rs.75 lakhs as per the discussion given in Para Nos. 4 and 5 of the re-assessment order. In these paragraphs, the AO analysed the employment status of the assessee on one side, the provisions of section 17 of the Act, the CBDT Circular and the BCCI payment details, the provisions of section 10(17A)(ii) of the Act, status of the assessee – sportsman Vs. professional cricketer etc., on the other. Eventually, vide the discussion given in Para No.7.1 of the assessment order, the AO denied the claim of exemption u/s.10(17A)(ii) of the I.T. Act. We proceed to extract the said para here as under :

*“7.1 After considering the above facts I am in opinion to that, this case is not fit for the claim of exemption under section 10(17A)(ii) of the Income Tax Act, 1961. Therefore the disallowance of the exemption of Rs.80,00,000/-.*

The clause (ii) of section 10(17) of the Act, provides for exemption in respect of the payments made by the Governments for the specified purposes in public interest. Relevant provisions read as under :

*“(17A) any payment made, whether in cash or in kind,-*

*(i) in pursuance of any award instituted in the public interest by the Central Government or any State Government or instituted by any other body. and approved by the Central Government in this behalf; or*

*(ii) as a reward by the Central Government or any State Government for such purposes as may be approved by the Central Government in this behalf in the public interest;]*

CBDT issued Circular No.02/2014 (F.No.199/01/2014-ITA-I) u/s.10(17A) of the Act and also CBDT Circular No.447 (F.No.199/1/86-IT (A-1) dated 22-01-1986 and the same was clarified vide the Circular No.02/2014

that “awards received by a sportsman, who is not a professional, will not be liable to tax in his hands as the award will be in the nature of a gift and/or personal testimonial”.

4. In the First Appellate proceedings, the CIT(A) confirmed the additions on the merits. Aggrieved with the order of CIT(A), the assessee is in appeal before the Tribunal with the grounds/additional grounds extracted above.

5. Before us, on the additional ground relating to validity of reassessment proceedings, Ld. Counsel for the assessee brought our attention to certain case laws and submitted that assessee requested the AO to furnish the reasons recorded by the AO before issue of notice u/s.148 of the Act. He submitted that this is a case where the reasons were not furnished in writing to the assessee thereby making the re-assessment proceedings invalid in view of the binding judgment. In this regard, Ld. Counsel relied on the judgment of Hon’ble Apex Court in the case of GKN Driveshafts (India) Ltd. Vs. ITO reported in 259 ITR 19.

6. In response to the issue of furnishing the reasons in writing to the assessee, Ld. DR for the Revenue submitted a letter dated 27-06-2018 mentioned that the fact that the reasons were indeed communicated to the assessee during the time of hearing and relied on the contents of the order sheet noting. Ld. DR read out the relevant lines and the same are reproduced here as under:

*“Issue notice u/s.143(1) & 143(2) for A.Y. 2013-14. Hearing fixed on 25-8-2015*

*Sd/-  
ITO*

*Shri D.Y. Pandit, Advocate, A.R. of the assessee attend ask for reason of reopening of the case. I explained to him reason of the case reopening, i.e. **“To verify exempted income claimed by the ‘A’ in his return of income.”** A.R. is noted this reason - no objection for the reason.*

*Further the details are called in respect of the exempt income claimed which is received to him for BCCI & Baroda Cricket Association.*

*The case is fixed on 15/9/2015.*

*Sd/-  
ITO*

7. Further, responding to the Ld. DR's submissions and the evidences, Ld. Counsel for the assessee brought our attention the **adequacy of the reasons** and mentioned that notice u/s.148 r.w.s. 147 cannot be issued merely "To verify exempt income claimed by the assessee in the return of income". In this regard, Ld. Counsel relied on various binding judgments to support that the re-assessment proceedings cannot be issued by the AO merely to conduct roving enquiries for doing verifications etc. which becomes a cause of surmises and the law does not permit to invoke such provisions.

8. In reply, Ld. DR for the Revenue relied heavily on the orders of the AO and the CIT(A) and submitted the written submissions during the proceedings before us. The same are reproduced here as under :

*"2. During the course of hearing in this case on 20.06.2018 the assessee has raised an additional ground challenging the validity of the reassessment proceedings by taking a contention that the reasons recorded for the reopening were not provided to the assessee and the opportunity to raise the objections was not allowed to the assessee by the AO.*

*3. In this regard it is humbly submitted that the above stated claim of the assessee is patently wrong and is in contradiction to the information available in the assessment records. The assessee during the assessment proceedings made a request to the AO vide letter dated 19.08.2015 to make him aware of the reasons recorded for the reopening of his case.*

*In response to this request of the assessee the AO during the course of hearing on 28.08.2015 duly made him aware of the reasons for reopening and the same were noted down in writing by Sh. D.Y. Pandit, Advocate, the AR of the assessee. Furthermore during the course of hearing on 28.08.2015, the AR after noting down the reason and understanding them submitted his no objection to the reason recorded to the AO.*

*These facts are duly noted in the order sheet entry dated 28.08.2015, (duly signed by the AR and the AO).The relevant part of the order-sheet entry is reproduced in verbatim as under:-*

28.08.2015 Shri D.Y.Pandit Advocate, AR of the assessee attended asked for the reasons of the reopening of the case. I explained to him reasons of the reopening i.e. **To verify the exempted income claimed by the 'A' in his return of income.** AR has noted this reasons and no objection for the reasons.

The photocopy of the relevant order sheet is also enclosed herewith for the kind perusal of your honours.

4. In view of the above submissions it is prayed that the additional ground taken by the assessee may kindly be dismissed.”

9. During rebuttal time, Ld. Counsel submitted that, on merits also, this kind of receipts received by the assessee is exempt from tax and heavily relied on the CBDT Circular No.447 of 1986 dated 22-01-1986 on one side and various binding and other judgments on the other. In support of his case, Ld. Counsel relied on the following case laws :

1. *Abhinav Bindra Vs. DCIT (2013) 36 CCH 0310 (Delhi Trib.)*
2. *CIT Vs. Pritam Das Narang (2015) 94 CCH 0014 (Delhi High Court)*
3. *CIT Vs. Bigabass Maheshwari Sewa Samiti (2008) 220 CTR 369*
4. *Bakulbhai Ramanlal Patel Vs. ITO (2111) 79 CCH 0204 (Guj. High Court)*
5. *CIT Vs. Batra (2008) 76 CCH 0918 (Delhi High Court)*
6. *DIT Vs. M/s. S.R.M.B. Diary Farming (P) Ltd. (Supreme Court)*
7. *ACIT Vs. Sameer Sudhakar Dighe – ITA No.1327/Mum/2016, dated 13-04-2018*
8. *CIT Vs. M.Balamuralikrishna 171 ITR 447 (Mad.)*
9. *G.R. Vishwanath Vs. ITO 29 ITD 142 (Bangalore)*
10. *Kapil Dev Vs. ACIT – ITA No.4788/Del./2003 and connected appeals dated 28-06-2013*
11. *CIT Vs. M/s. Gemini Distillers 398 ITR 343 (SC)*
12. *UTI and Another Vs. P.K. Unny and others 249 ITR 612 (Bom.)*

10. Referring to the **additional ground** raised by the assessee which is legal in nature, Ld. Counsel submitted that the additional ground raised by the assessee should be admitted for adjudication as no fresh facts are required to be investigated and all the material facts are available on record. For this proposition, Ld. Counsel relied on various judgments including the decision of Hon'ble Supreme Court in the case of NTPC Ltd. Vs. CIT reported in 229 ITR 383, the judgment in the case of Jute Corporation of India reported in 187 ITR

688, the judgment of Hon'ble Bombay High court in the case of Ahmedabad Electricity Company reported in 199 ITR 351.

11. On going through the facts of the case narrated above, we are of the opinion that the additional ground raised by the assessee is required to be admitted for adjudication by virtue of binding decisions on the same.

12. We heard both the parties on this limited issue of validity of reassessment proceedings and perused the orders of the Revenue. To start with, regarding furnishing of reasons recorded by the AO, we find there is evidence to demonstrate the fact of communicating the reasons to the assessee and the Ld. AR for the assessee acknowledged the same. In this regard, we find the Hon'ble Supreme Court in the case of GKN Driveshafts (India) Ltd. Vs. ITO and others (2002) Supp(4) SCR 359 has observed as under:

*“We see no justifiable reason to interfere with the order under challenge. However, we clarify that when a notice under Section 148 of the Income tax Act is issued, the proper course of action for the noticee is to file return and if he so desires, to seek reasons for issuing notices. The assessing officer is bound to furnish reasons within a reasonable time. **On receipt of reasons, the noticee is entitled to file objections to issuance of notice and the assessing officer is bound to dispose of the same by passing a speaking order. In the instant case, as the reasons have been disclosed in these proceedings, the assessing officer has to dispose of the objections, if filed, by passing a speaking Order before proceeding with the assessment in respect of the abovesaid five assessment years.**”*

*Insofar as the appeals filed against the order of assessment before the Commissioner (Appeals), we direct the appellate authority to dispose of the same, expeditiously.”*

Further, it is a case that the aforesaid reasons were accepted by the Ld. AR of the assessee and the assessee did not make use of it for filing further appeal on this issue of furnishing of reasons to the assessee before reopening of the completed assessment. Therefore, we are of the opinion that this part of the

arguments of Ld. Counsel for the assessee is unsustainable and therefore, the same are required to be **dismissed**.

13. Coming to the issue of **adequacy of reasons** recorded by the AO before assuming jurisdiction u/s.148 r.w.s.147 of the Act, we find the AO is on record in stating that he assumed jurisdiction **“To verify exempted income claimed by the ‘A’ in his return of income.”** The same was examined in the light of the CBDT Circulars (supra) which infact orders for exemption of such OTB-receipts in cases of sportsman. AO did not refute the assessee’s claim that he is not a professional. He is merely a sportsman. At the relevant point of time, Mr. Chandrakant Gulabrao Borde is an employee of Cooper Engineers Ltd. Chinchwad and hence, he constitutes sportsman only. Further, we also examined various decisions on similar cases receiving amounts from the BCCI and found that the said amounts were considered exempt and not to be included in the total income of the assessee. In this regard, we find in the case of CIT Vs. Bigabass Maheshwari Sewa Samiti, the Hon’ble Rajasthan High Court held as under :

*“11. Coming to Question No.1, a look at the judgment of the Tribunal shows, that the learned Tribunal has proceeded on two judgments of Hon’ble the Supreme Court, being in ITO & Ors. Vs. Lakhmani Mewaldas, reported in 103 ITR 437, and Gangasharan & Sons Vs. ITO & Ors, reported in 130 ITR 1. In Lakhmani Mewaldas's case, it has been held, that the reasons, which led to the formation of the belief, contemplated by Sec.147(a), must have a material belief, on the question of escapement of income of the assessee, from assessment, and does not mean a purely subjective satisfaction on the part of the ITO. Where live link between the material before the ITO, and the belief he was to form regarding escapement of income, is missing, such material was stated to be not sufficient for forming belief, and same view was taken in Gangasharan's case.*

*Then, applying these judgments, it has been found, by the learned Tribunal, that one of the conditions necessary for issuance of notice under Sec.148, being under-statement of income of the assessee, is not fulfilled. It has been held, that in order to bring an item within the purview of Sec.147, it is of utmost importance, that the assessing officer should have reason to believe, based on relevant and cogent material, that such income has escaped assessment. It has been found, that there was no material direct or indirect, available with the assessing officer, which could show, that the receipt of donations, amounting to Rs.30,16,598, was without any specific direction of corpus fund. The assessee has shown the receipts, as having been received in the corpus fund, coupled with the report of the auditor. The assessing officer had not inquired into the*

*nature of the receipts, before issuing notice under Sec.148, and in earlier years also, the amount was held to be received in the corpus fund.*

12. *In our view, the learned Tribunal has rightly examined the controversy. It is significant to note, that the learned Tribunal has further found, **that assessing officer cannot initiate reassessment proceedings, simply to verify the contents of the return, unlike before it was vested in him in making regular assessment.** It was found, that the time limit available for issuance of notice and making assessment under Sec.143(3) had expired, but then, on that count, he cannot assume the jurisdiction by venturing to make assessment under Sec.148. Even after hearing learned counsel for the parties at length, we are satisfied, that the reasons, given by the learned Tribunal, are in accordance with law.*

13. *Accordingly, question No.1 is also answered against the revenue.”*

The judgment is categorical in stating that the AO is barred from assuming jurisdiction u/s.148 of the Act merely to verify the claim of the assessee. Considering the above, we are of the opinion that the AO failed to satisfy the test of adequacy of the reasons for assuming jurisdiction u/s.148 r.w.s.147 of the Act. Accordingly, the additional ground raised by the assessee is partly allowed on this aspect of adequacy of reasons.

14. Coming to the **merits of the case**, we find the Delhi Bench of the Tribunal in the case of Abhinav Bindra Vs. DCIT (supra) has held as under :

*“13. Thus, Section 14 provides the various heads under which income has to be computed and Item No.F which is 'income from other sources' is a residuary head i.e. the income which is not assessable under any of the other heads, viz., salary, income from house property and gains from business or profession and capital gains is to be assessed under the head 'income from other sources'. However, for applicability of Section 14 and thereafter Section 56, what is required is the receipt in the nature of income. **In Circular No.447, it has been clearly stated "In view of this, it is clarified that such awards in the cases of a sportsman, who is not a professional, will not be liable to tax in his hands as it would not be in the nature of income."** Therefore, as per the Circular, the receipt by way of award by a sportsman who is not a professional sportsman will not be in the nature of income. In the order of learned CIT(A), he has distinguished between the words "reward" and "award", of course with reference to Section 10(17A). We have already stated that Section 10(17A) is not applicable where the above Circular is applicable. We further state that if we read the Circular as a whole, **it is clear that the purpose of the Circular is to encourage the sportsmen, especially those who are not professional sportsmen.***

14. *Coming back to the facts of the assessee's case, Shri Abhinav Bindra is the first person in the history of independent India to have won the Olympic Gold Medal. In a country whose population is more than 100 crores, if a sportsman who is not a professional sportsman has won the gold medal for the first time*

after 60 years of independence of the country and he has been given the awards/rewards/prizes mainly by various governments, local authorities, trusts and institutions and of course some corporate/individuals, a liberal construction of Circular No.447 is required. Considering the facts of the case and the nature and spirit of Circular No.447, we hold that in the case of the assessee, viz., Shri Abhinav Bindra, all the rewards/prizes/gifts received by him are covered by Circular No.447 dated 22nd January, 1986 and, therefore, should not be treated as income in his hands. **Accordingly, the addition of Rs.63,10,601/- made by the Assessing Officer and the enhancement of Rs.2,34,00,000/- made by the learned CIT(A) is deleted.**

15. In the result, the appeal of the assessee is allowed.”

From the above, it is evident that so long as the receipt of OTB/award is a sportsman, the Circular No.447 (supra) provides exemption.

14.1 We find the Mumbai Bench of the Tribunal in the case of ACIT Vs. Shri Sameer Sudhakar Dighe – ITA No.1327/Mum/2016 for the A.Y. 2011-12 dated 13-04-2018 decided the similar issue in favour of the assessee and relevant extracts are reproduced as under :

“7. We have heard rival contentions and gone through facts and circumstances of the case. The facts available in public domain are that the assessee has played national as well as international cricket. The assessee has played international test matches numbering 6 and ODI's numbering 23. The assessee is full time employee of Air India. The benefit match was conducted by the BCCI, which is a regulatory body for cricket in India to appreciate the personal talent and skill in this sport because the assessee is a retire sportsman and the proceeds arising out of this benefit match is in the nature of award. There is no direct nexus between the payment and assessee's profession and these receipts being capital in nature cannot be brought to tax. This view of ours is supported by the decision of co-ordinate Bench in the case of G.R. Viswanath vs. ITO (1989) 29 ITD 0142 of Bangalore Bench, wherein exactly on similar facts the issue was decided vide Para 7 to 10 as under:

“7. It was argued for the revenue that the amounts are paid to the assessee because of his professional activity and that the same constitute taxable income. Records show that the receipts were not the result of any professional activity. He is a full-time employee with the State Bank of India holding the post of an officer. Cricket was not for his living. It was stated at the bar that there is no professional cricket in India. The assessee obviously plays for love of cricket and because of his great talents he had been in the team that represented India for playing in Pakistan. These facts are fairly certain from the records.

8. A decision of the Delhi Bench of the Tribunal in the case of Navab Mohd. Mansur All Khan [1975] Tax. 40(6)-21 was cited wherein it is held that an award given as "best batsman" did not amount to any professional income. The CBDT has, in a Circular No. 447 [F. No. 199/86-IT(A-I)] dated 22-1-1986, clarified that awards received by a sportsman who is not a professional will not be liable to tax. As we have pointed out, cricket was not the profession of the assessee, but only a vocation.

9. It may be apposite to refer to the decision of the Madras High Court in the case of CIT v. M.Balamuralikrishna [1988] 171 ITR 447 wherein it is held that amounts received from admirers and fans of a musician in appreciation of his services rendered as a musician are not his taxable income. It has been held that the payment has no nexus to the profession. Here, the assessee was a professional musician.

10. The case of the assessee before us is on a better footing. He is not a professional cricketer. The amounts were given to him by the admirers or lovers of cricket in token of their appreciation of the qualities possessed by the assessee as a cricketer. In the circumstances, we are of the view that the amount of Rs. 4,75,000 received abroad is not includible in the taxable income."

8. Similarly, the co-ordinate Bench of Delhi Tribunal in the case of Abhinav Bindra vs. DCIT (2013) 28 ITR (Trib) 0376 (Delhi) has considered the identical issue and also considered the amendment provisions of section 56(2)(v) of the Act and held as under:-

"13. Thus, Section 14 provides the various heads under which income has to be computed and Item No. F which is 'income from other sources' is a residuary head i.e. the income which is not assessable under any of the other heads, viz., salary, income from house property and gains from business or profession and capital gains is to be assessed under the head 'income from other sources'. However, for applicability of Section 14 and thereafter Section 56, what is required is the receipt in the nature of income. In Circular No.447, it has been clearly stated "In view of this, it is clarified that such awards in the cases of a sportsman, who is not a professional, will not be liable to tax in his hands as it would not be in the nature of income."

Therefore, as per the Circular, the receipt by way of award by a sportsman who is not a professional sportsman will not be in the nature of income. In the order of learned CIT(A), he has distinguished between the words "reward" and "award", of course with reference to Section 10(17A). We have already stated that Section 10(17A) is not applicable where the above Circular is applicable. We further state that if we read the Circular as a whole, it is clear that the purpose of the Circular is to encourage the sportsmen, especially those who are not professional sportsmen.

14. Coming back to the facts of the assessee's case, **Shri Abhinav Bindra** is the first person in the history of independent India to have won the Olympic Gold Medal. In a country whose population is more than 100 crores, if a sportsman who is not a professional sportsman has won the gold medal for the first time after 60 years of independence of the country and he has been given the awards/rewards/prizes mainly by various Governments, local authorities, trusts and institutions and of course some corporate/individuals, a liberal construction of Circular No.447 is required. Considering the facts of the case and the nature and spirit of Circular No.447, we hold that in the case of the assessee, viz., Shri Abhinav Bindra, all the rewards/prizes/gifts received by him are covered by Circular No.447 dated 22nd January, 1986 and, therefore, should not be treated as income in his hands. Accordingly, the addition of Rs.63,10,601/- made by the Assessing Officer and the enhancement of Rs.2,34,00,000/- made by the learned CIT(A) is deleted."

9. Further, we find that the AO has applied the provisions of section 56(2)(vii)(a) of the Act. The relevant provision of section 56(2)(vii)(a) of the Act reads as under:-

*"(vii) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009 5[but before the 1st day of April, 2017],--  
(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;"*

*10. The AO assessed the proceeds of benefit match of the assessee under section 56(2)(vii)(a) of the Act, which is brought in the statue book with effect from 01.10.2009. But we find that this amount represents the gratitude from the fans and followers by attending the benefit match conducting in honor of the assessee, who is a retired cricketer of international repute. This type of receipts has specifically been exempted by the CBDT circular No. 477 [F. No. 199/86-IT(A-1)] dtd. 22.01.1986, **which states that the amount paid to amateur sportsman who is not a professional will not be liable to tax in his hands as it would not be in the nature of income. The assessee was an amateur cricketer and his profession is employment with Air India from where he is getting salary. He played the game of cricket for India as his passion and the receipts of the net proceeds for the benefit match was only in the nature of appreciation of his personal achievements and talent and thus, cannot be brought to tax by invoking the provisions of section 56(2)(vii)(a) of the Act. This proceeds from benefit match received by assessee is in appreciation of his past achievements in the International Cricket arena and such type of receipt cannot be taxed because these type of receipts are specifically exempted. Accordingly, we are of the view that the CIT(A) has rightly deleted the addition and we confirm the order of CIT(A).**"*

Therefore, the principle is obvious that, so long as the recipient is not a professional and the award/OTB is not the receipt for the professional reasons, and it is received in the capacity of a "Sportsman", the OTB/rewards are exempt from tax in view of the CBDR Circular No.447 (supra). Similar OTB/awards are exempted in the case of (1) Shri Abhinav Bindra; (2) Shri Sameer Sudhakar Dighe; and (3) Shri Navab Mansur Ali Khan Pataudi (supra) etc., On facts, the said OTB/rewards are received by the assessee who is merely an ex-cricketer and not a professional cricketer. He was merely a sportsman.

From the above finding of fact and law evolved in other cases, it is evident that the facts of the above case are identical to the facts of the present case on hand. AO did not make out a case that the assessee is a professional. Considering the favourable decisions on merits of the case too, we are of the opinion that the decision of CIT(A) upholding the addition made by the AO

needs to be reversed. Accordingly, the grounds/additional ground raised by the assessee are **allowed**.

15. In the result, appeal of the assessee is allowed.

Order pronounced on this 05<sup>th</sup> day of October, 2018.

Sd/-  
(VIKAS AWASTHY)  
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-  
(D. KARUNAKARA RAO)  
लेखा सदस्य / ACCOUNTANT MEMBER

पुणे Pune; दिनांक Dated : 05<sup>th</sup> October , 2018  
सतीश

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT (Appeals)-8, Pune.
4. आयकर आयुक्त / The Pr. CIT-4, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "बी" / DR 'B', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune.