

IN THE INCOME TAX APPELLATE TRIBUNAL

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No.782/Ind/2019
Assessment Year: 2010-11

Siraj Ul Hasan Bhopal (Appellant)	बनाम/ Vs.	CIT(A)-I Bhopal (Revenue)
P.A. No.AADPH9142F		
Appellant by	Shri S.S. Solanki, AR	
Revenue by	Shri R.P. Maurya, Sr. DR	
Date of Hearing:	15.10.2020	
Date of Pronouncement:	19.10.2020	

आदेश / O R D E R

This appeal by the assessee is directed against order of the Commissioner of Income Tax Appeals [CIT(A)]-1, Bhopal dated 09.05.2019 pertaining to the assessment year 2014-15. The assessee has raised following grounds of appeal:

“That the Ld. CIT(A) erred in maintaining addition of Rs.5,69,443/- out of the interest income. That proportionated interest out of total interest requires to be allowed.

2. The facts giving rise to the present appeal are that the assessee has filed return of income on 24.03.2015 declaring total income of Rs.5,82,437/-. The case of the

assessee was selected for scrutiny assessment while framing the assessment, assessing officer noticed that on verification of bank statement it was found that the assessee had not declared interest income of Rs.6,44,569/-. Further, the assessing officer made addition of Rs.30,000/- on account of covering up of leakage of revenue on adhoc basis.

3. Aggrieved against this the assessee preferred an appeal before the ld. CIT(A) who after considering the submissions partly allowed the appeal. However, the interest to the extent of Rs.5,69,443/- was sustained.

4. Now the assessee is in appeal before this Tribunal.

5. The only effective ground is against sustaining of interest. Ld. counsel for the assessee reiterated the submission as made in the written submission. He submitted that the assessing officer ought to have apportioned amongst other co-owners of the land.

6. On the contrary, ld. Sr. DR opposed the submission and supported the assessment order. He submitted that there is no illegality into the order of assessing officer. Further,

the entire interest was credited into bank account of the assessee. The bank account was not jointly held, therefore, the assessing officer has rightly assessed the interest income in the hands of the assessee.

7. I have heard the rival submissions, perused the materials available on records. I find that the Ld. CIT(A) has decided this issue in para 6.3 of his order as under:

“The appellant is an individual, who runs a Petrol & Diesel outlet. The AO found interest income of Rs.6,44,569/- credited to the A/c held with the central Bank, which was not disclosed for the F.Y.2013-14 i.e. for the A.Y.2014-15. For the A.Y.2013-14, the addition on account of interest was made of Rs.1,50,252/-. This addition was accepted & no appeal was filed. But, for the next A.Y. which is under appeal, such undisclosed interest income is of Rs.6,44,569/-, since the quantum was more, an appeal has been preferred. Now, it is being pleaded that:

1. *This interest income does not absolutely belong to the appellant. A piece of land was sold which was held jointly with 5 family member of the assessee:*
 - i. Md. Saeed Brother*
 - ii. Karnes Ayesha Sister*
 - iii. Atiya Nelofour Sister*
 - iv. Vahida Ayesha sister*
 - v. Self*

the proportion of shares in land is not given. It is explained that on sale of this land however, the entire consideration was received in appellant's bank a/c, with Central Bank of India. Hence, the interest income earned by the appellant belongs to all family members. The appellant's submission seems to be only argumentative, as no details of this interest income are shown in the returns of income filed by other family members. The appellant is the only person who has filed the return. Thus,

there is no evidence to justify the claim raised by way of filing affidavit dated 01.05.2019 that the interest of Rs.6,44,569/- is not exclusively related to the appellant. The gist of the affidavit is reproduced as below:

“ the interest from this account in tine of Rs.6,44,569/- is not exclusively related to my own source. According to the Muslim Law, following are the proportion of ratio of male and female of the family and interest amount is to be distributed in that proportion itself

Sr. No.	Name	Ratio	Interest portion
1	Md. Saeed	28.57%	Rs.1,84,153/-
2	Siraj Ul Hasan	28.57%	Rs.1,84,153/-
3	Kannes Ayesha	14.29%	Rs.92,109/-
4	Atiya nelofour	14.29%	Rs.92,109/-
5	Valida Ayesha	14.29%	Rs.92,109/-
Total			Rs.6,44,569/-

Sicne the facts of the affidavit stands alone and in isolation i.e. without having support of corroborative evidences, the contention raised, is rejected. It is further pleaded that in A.Y.2013-14 the interest on proportionate basiss for the months of Feb. & March was already considered which works out at $2,25,378 \times 4/6 = 1,50,252/-$. The AO in this order also has taken the credit of interest from 01.02.2013 to 15.07.2013 which is Rs.2,25,378/- as @ 50% which works out to Rs.1,12,689/-. The correct figure should have been Rs.75,126/-. Thus, the total undisclosed interest credit works out to Rs.6,44,569/- $75,126 = 5,69,443/-$ should only be added to the total income. Accordingly, the interest income was disclosed to the extent of Rs.5,69,443/- is upheld to be added to the total income.

8. I have considered the material available on records. It is not disputed that the amount credited on the bank account of the assessee was sale consideration of the land.

Therefore, in my view, ownership of such credit ought not to have been solely related to the assessee. The revenue has not rebutted the fact that the land was jointly held by five members of the family. It is also not disputed that the amount was credited in the bank account of the assessee which was out of sale consideration of the land so sold. Under these circumstances the contention of the assessee has some merit that the interest income ought to have been divided amongst the other co-owners of the land. It is not clear whether the interest credited was on the only sale consideration. Therefore, I set aside the issue to the file of the assessing officer to verify whether the amount credited was only the sale consideration of the land and if so found in that event he would apportion the interest income amongst the other land owners in the ratio of ownership in the land. Ground raised by the assessee is allowed for statistical purposes.

9. In result, appeal filed by the assessee is allowed for statistical purposes.

Order was pronounced in the open court on 19.10.2020.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

**Dated : 19.10.2020
Patel/PS**

**Copy to:
Appellant/Respondent/Pr.CIT(A)/Pr.CIT/DR, Indore**

By order

Assistant Registrar, Indore