

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
BENCH 'F', NEW DELHI**

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND SH. AMIT SHUKLA, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.55/De1/2018
Assessment Year : 2013-14

Ranjit Gupta A-24, Sector-51, Noida-201301 PAN : ACWPG 9130 H	Vs.	DCIT Circle – 3, Noida
(APPELLANT)		(RESPONDENT)

Assessee by	Shri Ved Jain, CA Shri Ashish Goel, Adv.
Revenue by	Shri Govind Singhal, Sr. DR

Date of hearing:	18/02/2021
Date of Pronouncement:	18/02/2021

ORDER

PER ANIL CHATURVEDI, AM:

This appeal filed by the assessee is directed against the order dated 25.09.2017 of the Commissioner of Income Tax (Appeals)- I, Noida relating to Assessment Year 2013-14.

2. The relevant facts as culled from the material on records are as under :

3. Assessee is an individual stated to be having income from salary, capital gains and other sources. Assessee filed his return of income for A.Y. 2013-14 on 16.11.2013 declaring total income of Rs.2,71,21,440/-. The case was selected for scrutiny and thereafter, assessment was framed u/s 143(3) of the Act vide order dated 26.02.2016 and the total income was determined at Rs.2,77,37,500/-.

4. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who vide order dated 25.09.2017 in Appeal No.237/E-file/2016-17/Noida dismissed the appeal of the assessee. Aggrieved by the order of CIT(A), assessee is now in appeal before us and has raised following grounds:

1. *“On the facts and circumstances of the case, the order passed by the learned CIT(A) is bad both in the eye of law and on facts.*
2. *On the facts and circumstances of the case, the learned CIT(A) has erred, both on facts and in law, in confirming the addition of Rs. 6,16,060/- made by the AO on account of interest income.*
3. *On the facts and circumstances of the case, the abovesaid addition has been confirmed despite the fact that no such interest income has been earned by the assessee during the year.*
4. *On the facts and circumstances of the case, the said addition has been confirmed misunderstanding the facts of the case, as neither the borrowed funds were used for payment of interest nor the borrowed funds were invested by way of loan without charging any interest.*

5. *Without prejudice to the above and in the alternative, the assessee claiming an amount of Rs. 1,50,000/- only on account of interest under the head 'income from house property', no disallowance more than this amount can be made.*

The appellant craves leave to add, amend or alter any of the grounds of appeal.”

5. Before us, at the outset, Ld. AR submitted that though the assessee has raised various grounds but the sole grievance is with respect to the confirmation of addition of Rs. 6,16,060/- made by the AO.

6. During the course of assessment proceedings, it was noticed that assessee had given loans to various parties for full year and the aggregate of such loan was Rs.51,33,830/- (the details of which are listed at page 2 of the order). He noticed that no interest of such loan has been received by the assessee. AO also noted that assessee had also taken loans aggregating of Rs.12,50,000/- on which it had paid interest. He therefore, held that assessee was paying interest @12% and had not charged any amount aggregating to Rs.51,33,830/- being the loan given. He accordingly computed interest on Rs.51,33,830/- @12% and added Rs.6,16,060/- as interest income.

7. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who upheld the order of AO. Aggrieved by the order of CIT(A) assessee is now before us.

8. Before us, Learned AR submitted that income of the assessee is mainly income from salary, capital gains and other sources and it is not into any business and has no business income. In support of his contention he pointed to the assessment order wherein the details of income declared by the assessee has been noted by the AO. He submitted that in the absence of any interest being earned, the Revenue was wrong in computing notional income on amount advanced more so when the assessee is not in the business and has not claimed any expenditure towards interest under head of business. He further pointed to the order of CIT(A) wherein CIT(A) by a very cryptic order has upheld the action of AO. He therefore submitted that no notional income could have been added by the AO.

9. Learned DR on the other hand, supported the order of lower authorities.

10. We have heard the rival submissions and perused the material on record. The issue for present ground is with respect to addition of Rs.6,16,060/- as interest income. It is an undisputed fact that assessee is having income from salary and is not engaged in any business and therefore has not claimed any business expenditure. The contention of the Learned AR that in the present case there is neither accrual of income nor receipt of income has not been controverted by Revenue. We find that AO has computed the interest income on the loans given by the

assessee on notional basis though the assessee has not received any interest income. It is a settled law that Income tax being levy on income tax can be charged only on income that has accrued or arisen to the assessee but no addition can be made on notional income or when no income has resulted to assessee. The Hon'ble Apex Court in the case of CIT vs. Excel Industries Ltd. (2013) 38 Taxmann.com 100 (SC) has held that income tax cannot be levied on hypothetical income. Considering the totality of the aforesaid facts, we are of the view that AO has not justified in making the addition on notional income. We therefore, direct its deletion. **Thus the ground of assessee is allowed.**

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

Order pronounced in the open court on 18.02.2021

Sd/-

**(AMIT SHUKLA)
JUDICIAL MEMBER**

Sd/-

**(ANIL CHATURVEDI)
ACCOUNTANT MEMBER**

Date:-18.02.2021

Priti Yadav, Sr.PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI