

**INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "B": NEW DELHI]**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA. No. 2736/Del/2018
(Assessment Year: 2013-14)

Shri Surpreet Singh Suri, 192-B, Sainik Farms, Khanpur, New Delhi - 110 062. PAN: AOHPS9046K	Vs.	ACIT, Central Circle : 6, New Delhi.
(Appellant)		(Respondent)

Assessee by :	Shri Sanjiv Sapra, C. A.;
Revenue by:	Shri R. K. Gupta, Sr. D. R.;
Date of Hearing :	16/08/2021
Date of pronouncement :	13/09/2021

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the assessee against the order passed by the Id. Commissioner of Income Tax (Appeals)-24, New Delhi, dated 31.01.2018 for assessment year 2013-14 wherein appeal filed by the Id. ACIT, Central Circle 6, New Delhi, dated 28th of March, 2016 passed under Section 153A of the Income Tax Act, 1961 (the Act) making an addition of Rs.2,20,500/- to the returned income of the assessee at Rs.4,55,88,070/- and determining the total income of Rs.4,58,08,570/- was dismissed. This is the solitary issue in this appeal.
2. Brief facts of the case shows that search and seizure operation in Three C Group was carried out on 29.10.2013. Assessee was also covered therein and, therefore, notice under Section 153A of the Act was issued on 11.11.2014. Assessee filed return on 23.07.2015 at Rs.4,55,88,070/-. The income was assessed at Rs.4,58,08,570/-. The solitary addition made of Rs.2,20,500/-.

3. The Assessing Officer called for the details of immovable properties. On examination of the details he noted that assessee is having 1/3rd share in a residential house which is treated as self-occupied. Further assessee has a flat No.7, 7th Floor, 6, Aurobindo Marg, New Delhi, purchased on 29.06.2012. Assessee did not show any rental income for the reason that assessee claimed that he could not find a suitable tenant and, therefore, such house could not be let out. Assessing Officer applied provisions of Section 23 of the Act where annual value of a property is deemed to be rent at which the property is expected to be let out, even if it is not actually let out. Therefore, he deputed the local Inspector to estimate the rental income, who reported that it is in the range of Rs.30,000/- to Rs.40,000/- per month. Therefore, the Assessing Officer determined deemed let out value of this property estimating the monthly rent of Rs.35,000/-, which works annually at Rs.3,15,000/-, granted deduction under Section 24 of 30% of the deemed annual rent and made an addition of Rs.2,20,500/-.
4. The Id. CIT (Appeals) asked the assessee to show even as on 25th January, 2018 whether the property is let out or not. The assessee submitted no, it is not and, therefore, the CIT (Appeals) held that assessee is not interested in letting out the above property. He denied vacancy allowance as the property remained vacant during the whole year. Hence, he confirmed the addition.
5. On appeal before us the Id. AR submitted that the vacancy allowance should be granted to the assessee and no addition could have been made. Even otherwise he submitted that the rent determined by the Id. Assessing Officer is excessive in nature. He submitted that the said flat was situated near to a burial site and the assessee could not find a tenant, therefore, the flat remained vacant and the assessee is entitled to vacancy allowance. He also relied on several judgements of ITAT. However, he fairly agreed that this issue has been decided by the co-ordinate bench for assessment year 2014-15 vide order dated 24.09.2019 in assessee's own case upholding the above addition on Rent of Rs 35000/- p.m. . He stated that the co-ordinate bench did not consider the other decisions of other benches of ITAT. Therefore, the same should not be followed.

6. The ld. DR vehemently submitted that when the issue is already decided in assessee's own case in earlier years, there is no reason that same decision should not be followed by the co-ordinate bench.
7. We have carefully considered the rival contentions. We find that identical issue has been decided by the co-ordinate bench in assessee's own case for assessment year 2014-15 in ITA. 653 (Del) of 2018 dated 24.09.2018 wherein in para Nos. 6 & 7 the addition made by the ld. Assessing Officer estimating the letting value of Rs.35,000/- per month was upheld. Therefore, we do not find any reason to deviate from the same. Regarding the argument of the ld. AR about not considering decisions 1 relied up on, we find that in para No. 4, the ITAT has considered all the decisions cited by the ld. AR. In view of this, we do not find any merit in the appeal of the assessee and confirm the orders of the lower authorities. Ground No. 2 and 2 of the appeal are dismissed.
8. The other grounds with respect to the levy of interest under Section 234A and initiation of penalty under Section 271(1)(c) of the Act are either premature or are consequential in nature, hence dismissed.
9. In the result the appeal of the assessee is dismissed.

Order pronounced in the open court on : 13/09/2021.

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Dated : 13/09/2021.

MEHTA

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

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	13.09.2021
Date on which the typed draft is placed before the dictating member	13.09.2021
Date on which the typed draft is placed before the other member	13.09.2021
Date on which the approved draft comes to the Sr. PS/ PS	13.09.2021
Date on which the fair order is placed before the dictating member for pronouncement	13.09.2021
Date on which the fair order comes back to the Sr. PS/ PS	13.09.2021
Date on which the final order is uploaded on the website of ITAT	13.09.2021
date on which the file goes to the Bench Clerk	13.09.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	