

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.5100/Del/2019
Assessment Year: 2012-13

Manju Rani Singhal,
H.No.131, Sec.15,
Faridabad.

Vs. ITO,
Ward-33(2),
New Delhi.

PAN: AAJPS0265Q

(Appellant)

(Respondent)

Assessee by : Shri Sumer Chand Garg, CA
Revenue by : Shri R.K. Gupta, Sr. DR

Date of Hearing : 05.08.2021
Date of Pronouncement : 14.09.2021

ORDER

This appeal filed by the assessee is directed against the order dated 21st May, 2019 of the CIT(A)-11, New Delhi, relating to Assessment Year 2012-13.

2. The grounds raised by the assessee are as under:-

01. The Ld, AO erred in law and on facts in passing the order u/s 154/143(3) dated 24.01.2018 and Ld. CIT(A) erred in law and on facts in confirming his arbitrary and invalid order in the facts and circumstances of the case. The Ld. CIT(A) is factually incorrect in observing that the appellant made no submissions during appellate proceedings against invoking the provisions of Section 154.

2. The Ld. AO and CIT(A) erred in law and on facts in considering the annual letting value at Rs.2777400/- instead of Rs.2716725/- as declared by the assessee on the basis of actual receipts which were duly verified by the AO and CIT(A). The Ld. CIT(A) erred on facts in

considering the total rent received by the assessee at Rs.2777400/- as per agreement for rent against the material on record.

3. The Ld. AO and CIT(A) erred in law and on facts in not appreciating that provisions of Section 154 were not attracted as there was no mistake apparent from record in the order passed on 29.01.2015 u/s 143(3) of the Act. The authorities failed to properly appreciate the facts of the case and submissions of the appellant while ignoring evidence already placed on record in the form of bank account and Form 26AS.

4. The Ld. AO and CIT(A) erred in law and on facts in charging to tax the notional income of Rs.60675/- which according to the AO should have been received but in fact was never received. The authorities ought to have followed the principle of real income as mandated by higher courts.

5. Without prejudice to above grounds, the Ld. AO and CIT(A) erred in law and on facts in increasing the assessed income by Rs.60675/- while ignoring the provisions Section 24(a) providing for deduction of a sum equal to 30% of the annual value.

6. The appellant craves leave to amend or alter all or any of the aforesaid grounds of appeal and amend, alter or add any other ground of appeal.

3. Facts of the case, in brief, are that the assessee is an individual and assessment was completed u/s 143(3) of the Act on 29th January, 2015 by the AO at the returned income of Rs.14,69,840/-. Later on, on perusal of record, the AO observed that as per computation of income for A.Y. 2012-13, an income of Rs.27,16,725/- was shown as Income from house property i.e., 68, Okhla Industrial Estate, Phase-III, New Delhi. However, as per rent agreement, the same was shown at Rs.2,31,450/- per month which comes to Rs.20,83,050/-. According to the AO, the assessee having 1/9th share the rent received for 12 months come to Rs.27,77,400/- i.e., Rs.2,31,450 x 12 whereas the assessee has shown rent of Rs.27,16,725/-. He, therefore, issued notice u/s 154 of the IT Act,

1961. Rejecting the explanation given by the assessee, the AO made addition of Rs.60,675/- to the total income of the assessee being the difference between the rent agreement and computation of income shown in the return for A.Y. 2012-13.

4. Before the CIT(A), the assessee submitted that the rent received has been declared on actual basis as the prevailing market rate has gone down during the previous year and, therefore, all the co-owners agreed with the tenant for the marginal reduction in rent.

5. However, the Id.CIT(A) was not satisfied with the arguments advanced by the assessee and dismissed the appeal filed by the assessee by observing as under:-

¶6.3 I have carefully considered the observations of AO and submissions of appellant. It is seen that as per the agreement for rent the total rent received by assessee was Rs.27,77,400/- on the basis of monthly rent of Rs.2,31,450/- instead of rent receipt of Rs.27,16,725/- declared by assessee. Appellant has stated that there was agreement between the co-owners and the tenant for marginal reduction of rent. However, there is no evidence to establish appellant's claim neither any submission on invoking the provision of section 154 has been submitted. Therefore, there is no basis in the claim of appellant.

6. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

7. I have heard the rival arguments made by both the sides and perused the record. It is the submission of the Id. Counsel for the assessee that in the case of another co-owner, namely, Nirmala Singhal, similar addition was made and the matter travelled upto the Tribunal and the rent declared by the assessee has been

accepted. Therefore, he has no objection if the matter is restored to the file of the AO with a direction to verify the rent declared by the other co-owners from the said property and decide the issue.

8. The Id. DR, on the other hand, has no objection for the above proposition.

9. In view of the above discussion, I restore the issue to the file of the AO with a direction to verify the rent declared by the other co-owners in the light of the decision of the Tribunal and decide the issue as per fact and law after giving due opportunity of being heard to the assessee. I hold and direct accordingly. The grounds raised by the assessee are accordingly, allowed for statistical purposes.

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

The decision was pronounced in the open court on 14.09.2021.

Sd/-

(R.K. PANDA)
ACCOUNTANT MEMBER

Dated: 14th September, 2021.

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Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi