

IN THE INCOME TAX APPELLATE TRIBUNAL
“G” Bench, Mumbai
Before Shri Shamim Yahya (AM) & Shri Amarjit Singh (JM)

I.T.A. No.7156/Mum/2018 (Assessment Year 2014-15)

Sachin R.Tendulkar 19A, Perry Cross Road Bandra(W) Mumbai-400 050 PAN : AAAPT4135B (Appellant)	Vs.	ACIT-23(3) Matru Mandir, Tardeo Grant Road(W) Mumbai-400 007 (Respondent)
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Assessee by	Shri Pankaj Jain
Department by	Shri T.S.Khalsa
Date of Hearing	20.09.2021
Date of Pronouncement	21 .09.2021

O R D E R

Per Shamim Yahya (AM) :-

This appeal by the Assessee is directed against the order of learned CIT(A)-34 dated 17.09.2018 and pertains to Assessment Year 2014-15.

2. The grounds of appeal read as under :

GROUND NO.1:

The Commissioner of Income Tax (Appeals)-34, Mumbai [hereinafter referred to as the CIT (A)] erred in not adjudicating ground no.2 of the appeal relating to addition made on account of deemed rental income of Rs.3,36,000/- (Rs.4,80,000 - 30% standard deduction) in respect of the vacant flat situated at Sapphire Park, Balewadi, Pune.

The Appellant submits that the since the ground of appeal was common for the assessment years 2013-14 & 2014-15, the CIT(A) passed a combined/single order for the both the assessment years. While the CIT(A) allowed the said ground of appeal for the income tax assessment year 2013-14 following the ITAT decision in the Appellant's own case for the income tax assessment year 2012-13, he did not adjudicate the ground of appeal for the income tax assessment year 2014-15.

The Appellant therefore prays that following the ITAT decision in his own case for the assessment year 2012-13, the ACIT be directed to delete the addition of Rs.3,36,000/- made by him.

GROUND NO.2:

The CIT(A) erred in not adjudicating the ground no.3 of the appeal relating to charging of interest of Rs.1,22,146/- under section 234A of the Act in computing the tax demand. The Appellant denies his liability to the charge of interest and submits that since the Return of Income for the above assessment year has been filed within the due date, the ACIT ought not to have charged interest under section 234A of the Act.

The Appellant has made an application for rectification under section 154 to the ACIT and if the same is rectified before the hearing of the appeal, the Appellant craves leave to withdraw the said ground of appeal.

GROUND NO.3:

The CIT(A) erred in not adjudicating the ground no.4 of the appeal relating to granting short credit for TDS aggregating to Rs.11,23,599/-. In computing the tax demand, the ACIT had granted credit for TDS aggregating to Rs.5,18,51,414/- as against the Appellant's claim of Rs.5,29,75,013/- thereby granting short credit to the extent of Rs.11,23,599/-. The Appellant submits that he is entitled to full credit of TDS as claimed in the Return of Income and the ACIT ought not to have restricted the same to Rs.5,18,51,414/-. The Appellant therefore prays that the ACIT be directed to allow balance credit of Rs.11,23,599/-.

The Appellant has made an application for rectification under section 154 to the ACIT and if the same is rectified before the hearing of the appeal, the Appellant craves leave to withdraw the said ground of appeal.

3. Brief facts of the case are that in this case Ld.CIT(A) has passed a combined order for AY 2013-14 and 2014-15. However in the order Ld.CIT(A) has only dealt with AY 2013-14 and has failed to mention/adjudicate issues raised in AY 2014-15. Against this assessee has filed appeal. The contention of the Ld. Counsel of the assessee is that there were similar issues raised in AY 2013-14 and 2014-15, while Ld.CIT(A) has adjudicated AY 2013-14, he has omitted to mention/adjudicate AY 2014-15. Ld. DR fairly agreed that Ld.CIT(A) has omitted to adjudicate AY 2014-15. However, Ld. DR pointed out that assessee has mentioned that assessee has filed rectification application u/s. 154 before the Ld.CIT(A).

4. However, Ld. Counsel of the assessee stated that considerable time has elapsed and Ld.CIT(A) has not passed any order u/s. 154. Upon careful consideration, we note that it is evident that Ld.CIT(A) has failed to adjudicate issues raised for AY 2014-15. Hence, in the interest of justice, we remit the issue to the file of Ld.CIT(A) to pass a speaking order on the issues related to this appeal, which were raised before him but have not been adjudicated by him. Needless to add, assessee should be granted adequate opportunity of being heard.

5. We make it clear that we have not adjudicated upon the merits of the issues in any manner whatsoever.

6. In the result, appeal by the assessee stands allowed for statistical purposes.

Pronounced in the open court on 21.09.2021.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 21/09/2021
Thirumalesh, Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai