

IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI

SHRI M. BALAGANESH, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 622/MUM/2022
(Assessment Year: 2017-18)

Digant Laxmidas Kapadia,
152, Ramanuj Road No. 9, Wadala,
Mumbai - 400031
[PAN:AADPK1511B]

..... Appellant

Vs

Centralised Processing Centre (CPC),
Karnataka, Bangalore

..... Respondent

Appearances

For the Appellant/Assessee : Shri Satish Modi
For the Respondent/Department : Shri Rajiv Singh

Date of conclusion of hearing : 25.07.2022
Date of pronouncement of order : 20.10.2022

ORDER

Per Rahul Chaudhary, Judicial Member:

1. By way of the present appeal the Appellant has challenged the order, dated 15.03.2022, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2017-18, whereby the Ld. CIT(A) had dismissed the appeal filed by the Appellant against the intimation/order, dated 26.06.2019 passed by the Deputy Commissioner of Income Tax, CPC under Section 143(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
2. The Appellant has raised the following grounds of appeal:

"1. The Learned Commissioner of Income-tax (Appeals), Income Tax Department has erred in confirming the assessment of interest income of RS. 15,48,775/- on the basis of Form 26AS though the interest income is not received by the appellant."

3. The relevant facts as emanating from the records are that the Appellant is an individual who has been consistently been offering interest income to tax on 'receipt basis' under the head 'Income from Other Sources'. For the Assessment Year 2017-18, the Appellant filed original return of income on 01.08.2017 which was revised on 28.03.2019. A communication of proposed adjustment under Section 143(1) of Act was issued to the Appellant, whereby addition of INR 15,48,775/- was proposed to be made the total income of the Appellant. Since, income disclosed in Form 26AS (INR.30,06,671/-) exceeded the income offer to tax in the return of income (INR 14,57,896/-). In response to the aforesaid notice of proposed addition, the Appellant responded by stating that the excess interest income reflected in Form 26AS would be offered to tax on receipt basis in the subsequent assessment years and therefore, TDS in respect of the same has also not been claimed and has been carried forward to the subsequent assessment years. However, without considering the same the return of the income was processed taking interest income of INR 30,06,671/- (as opposed to INR 14,57,896/- offer to tax by the Appellant) as income taxable under the head 'Income from Other Sources' for the relevant assessment year, and intimation/order, dated 26.06.2019, was issued to the Appellant under Section 143(1) of the Act.

4. Being aggrieved the Appellant preferred appeal before CIT(A) which was dismissed. The relevant extract of the order of CIT(A) reads as under:

“ 4.3 Merits Of The Case:

Section 5(1) of the Income Tax Act specifies to scope of total income as under

"Scope of total income.

5. (1) Subject to the provisions of this Act, the total income of any previous year of a person who is a resident includes all income from whatever source derived which

(a) is received or is deemed to be received in India in such year by or on behalf of such person, or

(b) accrues or arises or is deemed to accrue or arise to him in India during such year, or

(c) accrues or arises to him outside India during such year:

Provided that, in the case of a person not ordinarily resident in India within the meaning of sub-section (6) of section 6, the income which accrues or arises to him outside India shall not be so included unless it is derived from a business controlled in or a profession set up in India.*

It is evident that tax is chargeable on accrual basis. Further, it is settled law that where mercantile system accounting is followed interest has to be taxed on accrual basis. For instance, in the case of United Nilagiri Tea Estates Co. Vs Deputy Commissioner of Income-tax. Company Circle-1(1) (Madras High Court))Appeal Number: TC Appeal No. 278 OF 2006 Date of Judgement/Order 17/07/2012) it was held that interest income was taxable on accrual basis even if the amount was irrecoverable. In this case, the Form 26AS clearly specifies that the interest income had accrued. The assessing officer was therefore justified in making the adjustment under section 143(1) of IT Act. Hence, the grounds raised by the appellant are dismissed”. (Emphasis Supplied)

5. Being aggrieved, the Appellant has preferred the present appeal before the Tribunal challenging the addition of INR 15,48,775/- in the hands of the Appellant during the relevant assessment year on the basis of interest income reflected in Form 26AS.

6. The Ld. Authorised Representative for the Appellant submitted that the Appellant has been consistently been offering interest income to tax on receipt basis for several assessment years. No additions on this account have been made in any of the preceding assessment years. In order to support his contention, he took us through the revised return wherein the Appellant had offered to tax income of INR 12,36,718/- during the relevant assessment year on receipt basis which included interest income of INR 9,73,020/- which had accrued during the financial year 2015 but was offered to tax during the relevant assessment year on receipt basis and interest income of INR 2,63,700/- which accrued and was received during the relevant previous year from BE Billimoria & Company. He submitted that the Appellant had claimed credit of the corresponding tax deducted at source amounting to INR 1,23,672/- which included TDS of INR 97,302/- brought forward from earlier years. Since, the Appellant had not received interest income of INR.27,42,972/- from DLK Commercial Pvt. Ltd. during the relevant previous year, the same was not offered to tax as income for the Assessment Year 2017-18. The relevant enclosures in this regard were also made in TDS-2 Schedule forming part of the revised return. In view of the aforesaid, he submitted that the addition of INR 15,48,775/- (INR.30,06,671 – INR.14,57,896/-) is liable to deleted.

7. Per contra, the Ld. Departmental Representative submitted that while processing the income the amount of INR 15,48,775/- has been correctly added as out of the total income of INR 30,06,671/- reflected in Form 26AS only INR 14,57,896/- was offered to tax by the Appellant.

8. We have considered the rival submissions. On perusal of material on record, we are satisfied that the Appellant has been consistently offering to tax interest income under the head 'Income from Other Sources' on receipt basis in line with the provisions of Section 145 of the Act. Interest income of INR.30,06,671/- reflected in Form 26AS, has accrued to the during the relevant previous year, out of which interest income of INR 2,63,699/- received by the Appellant during the relevant previous year from B E Billimoria & Company has been offered to tax on receipt basis. In addition, interest income INR.9,73,020/- which had accrued is Financial year 2015 has also been offered to tax on receipt basis during the Assessment Year 2016-17. Taking the aggregate interest income received from BE Billimoria & Company offered to tax on receipt basis for the relevant assessment year at INR.12,36,719/-. Further, the Appellant had also offered to tax other interest income aggregating to INR 2,21,178/-. Thus, taking the total income offered to tax under the head income from other sources at INR 14,57,896/-. We note that while processing the revised return, the different between interest income of INR 30,06,671/- reflected in Form 26AS and income of INR 14,57,896/- offered to tax under the head Income from Other Sources amounting to INR 15,48,775/- has been added without having regard to the disclosures made by the Appellant in Schedule TDS-2 of the revised return wherein the Appellant had clearly disclosed that

the Appellant is carrying forward TDS amount of INR 27,42,972/- as the corresponding income has not been further to tax during the relevant assessment year. The Appellant has been able to reconciliation the figure of interest income received offered to tax and carried forward to the subsequent years in proceedings before us. Accordingly, there was no error in the revised return of income requiring adjustment/addition in terms of Section 143(1) of the Act. Accordingly, we delete the addition of INR.15,48,775/-. Ground No. 1 raised by the Appellant is allowed.

9. In result, present appeal is allowed.

Order pronounced on 20.10.2022.

Sd/-
(M. Balaganesh)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 20.10.2022
Alindra, PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai