

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'A' NEW DELHI****BEFORE DR. B. R. R. KUMAR, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR U.S., JUDICIAL MEMBER****I.T.A. No. 8755/DEL/2019 (A.Y 2013-14)**

Archana Airways Ltd. L-7A, (LGF), South Extension Part-2, New Delhi PAN: AAACA0306A (APPELLANT)	Vs	ITO Ward-3(2) New Delhi (RESPONDENT)
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Appellant by	Sh. Rajkumar, CA, Sh. JP Sharma, CA & Sh. Shivam, CA
Respondent by	Sh. Kanav Bali, Sr. DR

Date of Hearing	18.10.2022
Date of Pronouncement	02.11.2022

ORDER**PER YOGESH KUMAR U.S., JM**

The appeal has been filed by the assessee against the order dated 30/08/2019 passed by the Ld.CIT(A) -1, New Delhi for Assessment Year 2013-14.

2. The grounds of appeal are as under:-

"1. That under the facts and circumstances, addition of Rs. 11,89,532/- for interest on FDR is unjustified in law as well as on merits.

2. That without prejudice, in case the interest is to be taxed in Assessment Year 2013-14, then credit for the TDS deducted on the

said interest should be given to the assessee. Alternatively, the credit of the TDS deducted on the said interest should be given to the assessee. Alternatively, the credit of the TDS on such interest income should be given in Assessment Year 2016-17 and Assessment Year 2017-18 in which years the said interest has been offered for taxation.”

3. Brief facts of the case are that, the return was filed by the assessee declaring total income at a loss of Rs. 62,324/-. The return was proceed u/s 143(1) of the Act. The case was selected for scrutiny and initial notice u/s 143(2) of the Act was issued, in response, the representative of the assessee has participated in the assessment proceedings. The assessment order came to be passed on 15/03/2016 by making an addition of Rs. 65,00,000/- as undisclosed credit u/s 68 of the Act and a sum of Rs. 11,89,532/- being interest earned on the fixed deposits, which have been shown in the profit and loss account, therefore, held the said income of the assessee under the head 'income from other sources', computed the total taxable income at Rs. 76,27,208/-.

4. Aggrieved by the assessment order dated 15/03/2016, the assessee has preferred an appeal before the CIT(A) and the Ld.CIT(A) vide order dated 30/08/2019 deleted the addition of Rs. 65,00,000/- made u/s 68 of the Act and sustained the addition of Rs. 11,89,532/- for interest on FDR.

5. Aggrieved by the order dated 30/08/2019, the assessee has preferred the present appeal on the grounds mentioned above.

6. The Ld. Counsel for the assessee vehemently submitted that the addition of Rs. 11,89,532/- for interest on FDR as unjustified in law. The Ld. Counsel for the assessee further submitted that the said income cannot be said to have accrued in the Assessment Year 2013-14, the said income has been accrued only in the Assessment Year 2017-18, after the order of Hon'ble High Court

dated 15/11/2016, which has been physically received in the Assessment Year 2017-18. The Ld. Counsel further submitted that the assessee has offered for taxation of the said interest in the Assessment Year 2016-17 and Assessment Year 2017-18. Therefore, the assessee is entitled for TDS Credit of such amount.

7. Per contra, the Ld. DR has relied on the order of the Lower Authorities.

8. We have heard the parties, perused the material on record and gave our thoughtful consideration.

9. It is not in dispute that the assessee has received the interest only after passing of the order by the Hon'ble High Court on 15/11/2016 and the assessee has offered the said amount for taxation in the Assessment Year 2016-17 & 2017-18. As per Section 5 of the Income Tax Act, the total income of the assessee in any previous year in case of resident includes all income from whatever sources derived which are received or deemed to be received in the taxable territory of India. In the present case, assessee acquired the right to received income of Rs. 65,00,000/-after the passing of judgment dated 15/11/2016 by the Hon'ble High Court and the same was subjected to tax in AY 2017-18. Such being the case, there cannot be taxation for the same amount in the year under consideration i.e. Assessment Year 2013-14, which amounts to double taxation . In view of the same, the addition made in the Assessment year 2013-14 deserves to be deleted. Accordingly, we allow Ground No. 1 of the Assessee.

10. So far as Ground No. 2 is concerned, the assessee offered the subject income for taxation in Assessment 2016-17 & 2017-18. As per Section 199 of the I.T Act, credit for tax deduction at source shall be given to the deductee for the assessment year for which such income is assessable. Therefore, with the above observations the Ground No. 2 deserves to be partly allowed and the

assessee is entitled to get the TDS Credit as per Section 199 of the I.T Act.
Order accordingly.

11. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the Open Court on this 02nd Day of November , 2022

Sd/-

**(B. R. R. KUMAR)
ACCOUNTANT MEMBER**

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Dated: 02/11/2022
*R. Naheed **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI