

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[ DELHI BENCH : "E" NEW DELHI ]**

**BEFORE DR. B. R. R. KUMAR, ACCOUNTANT MEMBER  
AND**

**SH. YOGESH KUMAR U.S., JUDICIAL MEMBER**

**I.T.A. No. 2081/DEL/2018 (A.Y 2014-15)**

DCIT, Circle : 2 (1), Gurgaon.  <b>(APPELLANT)</b>	Vs.	Mr. Micheal Robert Barclay, C/o. Cairn India Limited, DLF Atria Building, Phase-II, Jacranda Marg, Gurgaon Haryana – 122 002. <b>PAN No. APEPB3644L</b> <b>(RESPONDENT)</b>
--	-----	---

<b>Assessee by</b>	<b>N o n e;</b>
<b>Department by</b>	<b>Shri Amit Shukla, Sr. D. R.;</b>

<b>Date of Hearing</b>	<b>29.11.2022</b>
<b>Date of Pronouncement</b>	<b>05.12.2022</b>

**ORDER**

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

This appeal is filed by the Revenue for assessment year 2014-15 against the order of the Id. Commissioner of Income Tax (Appeals)-1, Gurgaon, dated 10.01.2018.

2. The Revenue has raised the following substantive ground of appeal:-

*“Ld. CIT (Appeals) erred in deleting the addition of Rs.4,09,71,232/- on account of unexplained credits in the foreign bank accounts out of total addition of Rs.4,21,47,611/- made by the Assessing Officer on the basis of remand report submitted by the AO whereas the AO has not given clear findings on the issue. Ld. CIT (A) has not appreciated the facts given in remand report that most of credit entry correspond to salary and interbank transfers within the accounts held by the assessee, and, loan repayment by friends/relatives.”*

3. Brief facts of the case are that, the assessee filed its return of income u/s 139(1) of the Act declaring in income of Rs. 3,70,86,780/-. The return was picked up for limited scrutiny and the questionnaires u/s 142(1) of the Act was issued and the assessment proceedings have been initiated. The assessment order came to be passed on 24/10/2016 by making an addition of RS. 4,21,47,611/-. The Ld. A.O was of the opinion that the assessee could not in substantiate its claim of amount credited in the foreign bank account held by the assessee. The Ld. A.O. has treated the said amount of Rs. 4,21,47,611/- as disclosed in the peak credit column of the Income Tax Return as income of the assessee.

4. As against the assessment order dated 24/10/2016, the assessee has preferred an appeal before the CIT (A). The Ld.CIT(A) vide order dated 10/01/2018, partly allowed the appeal by restricting the addition made by the Assessing Officer to Rs. 11,76,379/-.

5. As against the order of the Ld.CIT(A) dated 10/01/2018, the Revenue has preferred the present appeal on the grounds mentioned above.

6. None appeared on behalf of the assessee, the notices issued by the registry were returned with endorsement 'LEFT' the address. Therefore, we are constrained to decide the Appeal after hearing the Ld. DR and verifying the material on record.

7. The Ld. DR vehemently submitted that the Ld.CIT(A) has erred in deleting the addition of Rs. 4,09,71,232/- on account of unexplained credit in the foreign bank accounts out of the total addition of Rs. 4,21,67,611/- made by the A.O. Further submitted that, the Ld.CIT (A) has not appreciated the facts given in the Remand Report that most of the credit entry corresponded to the salary and interbank transfer within the account held by the assessee and loan payment by the friends and colleagues. Therefore, prayed for allowing the Appeal.

8. We have heard the Ld. DR perused the material available on record and gave our thoughtful consideration. During the appellate proceedings, the assessee has submitted additional evidence. Based on the additional evidence submitted by the assessee, the Ld.CIT (A) has called for the remand and the A.O. has filed its report on 28/11/2017 which is reproduced hereunder:-

*1. "The brief facts of the case are that the assessee filed his Income Tax Return declaring an income of Rs. 3,70,86,780/- on 28.07.2014/-. The case of the assessee was selected for scrutiny . Assessment u/s 143(3) was completed on 24.10.2016 thereby making an addition of Rs.4,21,47,611/- to the Returned income of the assessee, on account of unexplained credits in the foreign bank accounts of the assessee.*

*Addition of Rs. 4,21,47,611/- was made on account of undisclosed foreign income of the assessee as he failed to provide any explanation for the source of the aforementioned amount credited*

into his foreign bank accounts. The assessee has now submitted bank statements of his foreign bank accounts. A letter F.No. DCIT/C-2/GGN/17-18/6145-46 dt. 21.08.2017 was issued to the assessee thereby providing him an opportunity of being heard on 29.08.2017. In response, the A.R. of the assessee attended the proceedings and submitted written reply. On the perusal of the bank statements submitted by the assessee as additional evidence under Rule 46A, it was observed that most of the credit entries correspond to the salary, which was already offered to tax in the I.T.R for the period under consideration; inter bank transfers within the accounts held by the assessee, and, loan repayment by friends/relatives which is not an income of the assessee for the period under consideration.

However, there were some credit entries for which further explanation was required from the assessee. A discussion with the A.R. of the assessee revealed that below credit entries in the account no. 9543-36157 which form a part of the income of assessee from other sources were not offered to tax by the assessee.

Date	Amount in GBP)	Description	Interest component (in GBP)
20.05.2013	5220.36	Interest	5220.36
21.10.2013	7810.13	Capital refunded + Interest	80.53
21.10.2013	3,347.20	Capital refunded + Interest	345.23
24.10.2013	22,812.24	Capital refunded + Interest	2813.18
06.01.2014	5163.57	Capital refunded + Interest	261.29
06.01.2014	2212.96	Capital refunded + Interest	111.98
24.01.2014	2401.15	Interest	2401.15
		TOTAL	11,958,72

*The A.R. of the assessee has also agreed that the above mentioned interest income at 11,76,379/- had not been shown by the assessee in his I.T.R. for the period under consideration. The A.R. also mentioned that taxes have now been paid on this amount by the assessee.*

*The issue may please be decided on the merit of this case.”*

9. The above said report of the A.O. has been provided to the assessee and the assessee has replied as under:-

*“This is with reference to the captioned appeal filed before your Honour and our submission dated 30 June 2017, for which the hearing is fixed for today.*

*As submitted earlier in my submission dated 30 June 2017, I notice that there are some investments which were matured during the subject AY and the proceeds were credited to Net West (A/c No. 9543-36157165). The interest element in the proceeds was inadvertently not included in the tax computation while filing the tax return for the subject AY. I hereby attach the revised tax computation including the interest income of Rs. 11,76,379 /- for the subject AY as Annexure I. Also attached is the copy of challan for the additional tax and interest paid of Rs. 563,770 /-, basis the revised tax computation as Annexure 2.*

*It is prayed that the addition of Rs. 4,21,47,611 /- on account of peak balance lying in my foreign bank accounts be deleted which would result in deletion of the demand of Rs. 1,87,67,120/-.*

*I shall be pleased to provide any further information/ clarifications your Honour may require.”*

10. On consideration of the report of the A.O. and the reply given by the assessee it has been rightly observed by the CIT(A) that out of the total addition of Rs. 4,21,47,611/- made by the A.O on account of peak balance lying in the foreign bank accounts only the interest income of Rs. 11,76,379/- credited to the Natvest Account 954336157165 was not accounted for the return filed by the appellant. It is also noticed by the A.O. in his remand report dated 08/11/2017 that *most of the credit entries corresponding to salary, which was already offered to tax in the ITR for the period under consideration: inter bank transfers within the accounts held by the assessee and loan repayment by friends/relatives which is not an income of the assessee for the period under consideration.*

11. Further, the A.O. has noticed that only income of Rs. 11,76,379/- had not been shown by the assessee in his return of income for the year under consideration, which has been later offered by the assessee himself for taxation and paid the tax. Therefore, the Ld.CIT (A) has rightly restricted the addition of Rs. 11,76,379/. The approach of the Ld.CIT(A) is in order which is not erroneous and the same requires no interference at our hands. Thus, we do not find any merit in the grounds of appeal of the Revenue.

12. In the result, appeal filed by the Revenue is dismissed.

**Order pronounced in the Open Court on : 06.12.2022.**

**Sd/-**  
**(Dr. B. R. R. KUMAR)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(YOGESH KUMAR US)**  
**JUDICIAL MEMBER**

Dated : 06/12/2022

\*R.N, SR. PS\*

Copy forwarded to :-

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI