

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI**

**BEFORE SHRI ABY T. VARKEY, JM AND SHRI GAGAN GOYAL, AM**

आयकर अपील सं/ I.T.A. No.18/Mum/2022

(निर्धारण वर्ष / Assessment Year: 2012-13)

Nitin Raj Marwah 8 <sup>th</sup> Floor, Marwah Centre, Krishanlal Marwah Marg, Andheri (E), Mumbai- 400072.	<b>बनाम/</b> Vs.	DCIT-8(2) Aayakar Bhavan, Maharishi Karve Road, Mumbai-400020.
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABPM2959F</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Shri M. Subramanian
Revenue by:	Shri Chetan M. Kacha (Sr. AR)

सुनवाई की तारीख / Date of Hearing: 25/07/2022

घोषणा की तारीख /Date of Pronouncement: 29/07/2022

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)/NFAC, Delhi dated 26.10.2021 for assessment year 2012-13.

2. The main grievance of the assessee is against the action of the Ld. CIT(A)/NFAC confirming the action of AO determining a sum of UK Pounds 21,180 as the Annual Letting Value (ALV) of a Residential House Property owned by the assessee in London, [United Kingdom (UK)] and making addition of the same.

3. The brief facts as noted by the AO is that the assessee had filed return of income declaring total income at Rs.64,87,033/-. The AO noted that the assessee had six (6) residential house/flats. According to the AO, the assessee has not offered any income in respect of one of these properties as deemed to be let out under the head 'Income from House Property'. The AO further noted that the assessee is a resident



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Indian. And he was asked to explain as to why the London flat should not be considered as deemed to be let out and charged to tax under the head 'income from house property'. After hearing the assessee, the AO was pleased to calculate the ALV u/s 23(1) of the Income Tax Act, 1961 (hereinafter "the Act") and made an addition of (UK Pounds) 21,180/-. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A) who was pleased to dismiss the same. Aggrieved, the assessee is before us.

4. We have heard both the parties and perused the records. At the outset, the Ld. AR of the assessee brought to our notice that the AO in the subsequent assessment years AY. 2015-16 and Ld. CIT(A) for AY. 2014-15 has accepted the value of the property in India instead of the property/flat in London in order to determine the ALV. Therefore, in the light of the subsequent actions of the AO as well as Ld. CIT(A), the assessee's only plea before us is to direct the AO to adopt the ALV of Indian property instead of London property. We note that the Assessing Officer has accepted the assessee's choice of treating the house property of the assessee's residential property situated at Bandra (West), Mumbai to be considered for the purpose of determining as deemed let out instead of the house property situated at United Kingdom (UK) for AY. 2015-16 and AY. 2016-17. We also note that the Ld. CIT(A), while considering the appeals of the assessee against similar action of AO for AY. 2014-15 taking note of AO's action for AY. 2015-16 & AY. 2016-17 concurred with it and thus gave relief to the assessee for AY. 2014-15 by restricting the addition from Rs.12,03,394/- to Rs.1,915/-. In the light of the aforesaid action of the



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Ld. CIT(A) as well as AO (for AY. 2014-15 to AY. 2016-17), we are of the considered opinion that the assessee's house property in Bandra (West), Mumbai to be considered as deemed let out instead of house property situated at United Kingdom (UK). With this observation, we direct the AO to make the computation of ALV in accordance to law for the Bandra (West), Mumbai instead of property at UK. In the light of the above, the appeal of the assessee is allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 29/07/2022.

Sd/-

(GAGAN GOYAL)  
ACCOUNTANT MEMBER

Sd/-

(ABY T. VARKEY)  
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 29/07/2022.

Vijay Pal Singh, (Sr. 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//

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