

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'F': NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
Ms. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.6216/DEL/2019
[Assessment Year: 2013-14]**

Ranjan Sharma, C/o-Kapil Goel, Adv. F-26/124, Sector-7, Rohini, New Delhi	Vs	ACIT, Circle-54(1), 15 th Floor, E-2 Block Shyama Prasad Mukerjee Civic Centre, J.L. Nehru Marg, Minto Road, New Delhi-110002
PAN-AAAPS0034N		
Assessee		Revenue

Assessee by	None
Revenue by	Ms. Princy Singla, Sr. DR

Date of Hearing	09.02.2023
Date of Pronouncement	15.02.2023

ORDER

PER SHAMIM YAHYA, AM,

This appeal by the assessee is directed against the order of ld. CIT (Appeals)-18, New Delhi, dated 22.05.2019 for the Assessment Year 2013-14.

2. The grounds of appeal reads as under:-

1. That on the facts and in the circumstances of the case and in law, ld. CIT(A) erred in sustaining the order passed by Ld. Assessing Officer u/s in so far as addition of Rs.577,500/- on a/c of rental income of Woodwilla property at Delhi on sole and mere basis of different rent recd from different tenants which were at arms length price (ALP) without any collusion on part of assessee and merely because one tenant paid higher rent for same property can't be benchmark ipso facto to deem it as reasonable rent u/s 23 of the Act (annual value purposes) without any independent market inquiry on the same so addition made/sustained of Rs.5,77,500/-."

3. Brief facts of the case are that the Assessing Officer observed from the computation of income that the assessee had rented out his Woodwilla property to M/s Sara International Ltd. for 11 months during the year @Rs.50,000/- per month and from 01.03.2013, it was let out to Ms. Monica Khanna at monthly rent of Rs.1,25,000/-. The Assessing Officer held that the assessee has failed to justify the reason for 250% increase in monthly rent of his property. In view of this, the Assessing Officer has computed the annual lettable value (ALV) of this property @Rs.1,25,000/- per month and has recomputed the income from house property accordingly.

4. Upon assessee's appeal, the Ld. CIT(A) noted the assessee's submission and cases relied upon the by the assessee. He distinguished the same and held as under:-

“6.3.1 In the present case, it is observed that the property was let out for 11 month at Rs. 50,000/- per month and at Rs.1,25,000/- per month from the month of March 2013 onwards. The AR has not been able to justify the substantial increase in monthly rent of the property. No particular reason has been specified which led to the increase in rent in March 2013. The only factor stated is that the property was in the proximity of a cemetery. Since this is a permanent feature of the property, this factor is irrelevant. It is further observed that after completion of 11 months period from 01.03.2013 i.e. w.e.f. 01.02.2014, the property was let out at monthly rent of Rs.1,37,500/-. This clearly shows that the monthly rent of Rs.1,25,000/-represents fair rent in the case of this property. It is also to be kept in mind that earlier the property was let out to the Embassy of Zimbabwe for the period from 01.03.2008 to 29.02.2010 at monthly rent of Rs. 2,20,000/-. It has been stated by the AR that the Embassy had agreed to pay higher rent than the actual market rent as it was not regular in paying monthly rent. This fact seems to have been taken into consideration by the AO and that is why the AO has not taken the fair rent of the property at Rs.2,20,000/- per month. However, there is no reason for not treating the monthly rent of

Rs.1,25,000/- actually received by the appellant as fair rent for the property. In view of all these facts, I am of the opinion that the AO has rightly computed the ALV of the property by considering the monthly rent of Rs. 1,25,000/- as fair rent of the property in accordance with section 23(1) of the Act. Accordingly, the addition made by the AO is upheld and the ground of appeal is dismissed.”

5. Against the above order, the assessee is in appeal before us.

6. We have heard the ld. DR and perused the records. Nobody has appeared on behalf of the assessee. We proceed to adjudicate the issue by hearing the ld. DR and perusing the records. We find that in the present case, in the earlier period, the assessee has put the house on rent to an embassy @Rs.2,20,000/- per month. Thereafter, for some period it was given to an individual @Rs.50,000/- per month and thereafter to some other party @Rs.1,25,000/- per month. In these facts, it is the opinion of the authorities below is that the period during which the assessee has earned Rs.50,000/- per month rental income should be substituted by the rental income of Rs.1,25,000/-. We find that the background of the case clearly reveals that the assessee has conducted in a bona fide manner when it was possible it was put on rent @Rs.2,20,000/- per month which is much more than Rs.1,25,000/- estimated by authorities below. This Rs.1,25,000/- per month is also taken from the assessee's tenant itself for a period. For those periods when the assessee could put the house on rent only @Rs.50,000/-, the authorities below have drawn adverse inference and held that the same should be substituted @Rs.1,25,000/- per month. There is no comparison whatsoever done by the authorities below for the municipal ratable value. The assessee has been penalized for its own

bona-fide conduct in putting the house on rent at higher rate. No case has been made out that there is any evidence of the assessee suppressing rental income and receiving higher income in some other manner or in clandestine manner. Hence, in our considered opinion, the estimation of income is based on whims and fancies without any cogent reason. Hence, we set-aside the order of the order of the Ld. CIT(A) and delete the addition.

7. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open court on 15th February, 2023.

Sd/-
[ASTHA CHANDRA]
JUDICIAL MEMBER

Sd/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

Delhi; Dated: 15.02.2023.

Shekhar,

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi