

**THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member
Sh. Yogesh Kumar US, Judicial Member**

**ITA Nos. 1882 to 1887/Del/2020
Assessment Years: 2012-13 to 2017-18**

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| ACIT, Central Circle-8, New Delhi | Vs. | Sanjay Gupta, E-24, Preet Vihar, New Delhi-110092 |
| (APPELLANT) | | (RESPONDENT) |
| PAN No. AAHPG3047Q | | |

**Assessee by : Sh. Akshat Jain, Adv
Revenue by : Sh. H. K. choudhary, CIT-DR**

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| Date of Hearing: 22.02.2023 | Date of Pronouncement: 28.02.2023 |
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ORDER

Per Bench:

These are the appeals filed by the revenue against the order of the Id CIT(A)-24, New Delhi dated 10.08.2020 for Assessment Years 2012-13 to 2017-18. Since the issue involved in all the appeals is similar they are being adjudicated together.

2. The revenue has raised the following grounds of appeal in ITA No. 1882/Del/2020 for Assessment Year 2012-13:-

"1. The learned CIT(A) erred in law as well as on facts in deleting the addition of Rs. 3,55,296/- representing the assessee's foreign income for the previous year under consideration."

3. **Excerpts from assessment order.**

A search and seizure action u/s.132 of the Income- tax Act, 1961 was carried out in the OPG Group of cases on 15/11/2017

in F.Y. 2017-18. A search warrant of authorization, u/s.132, was issued in the name of Sh. Sanjay Gupta in the case of M/s. OPG Securities Pvt. Ltd., 503-504, Tower-5, Common Wealth Games Village, New Delhi and many other places.

Assessee had furnished his original return of income u/s.139 of the Act on 26/09/2013 declaring total income of Rs. 80,51,470/-. The same was processed u/s. 143(1) of the Act, 1961 on 07/04/2014.

3. Since search was initiated in this case, notice under section 153A of the Act, was issued on 27/06/2019 and duly served. In response to the notice u/s 153A, return of income was filed on 21/09/2019 declaring total income at Rs. 80,51,470/-. The returned income in pursuance to the notice u/s 153A remains the same as earlier returned of income filed on 26/09/2013.

4. During search operation salary certificate of Sh. Sanjay Gupta found on the mobile phone of Sh. Devansh Gupta in the file "Sanjay Gupta salary certificate" (Annexure A-5 seized from G-190, Preet Vihar, New Delhi 110092). In this connection, assessee was asked to explain the following vide notice u/s 142(1) of the I.T. Act, 1961 on 04/12/2019:-

Q1. Since when the salary AED 2000/- had been received by you?

Q2. Has the income of AED 2000/- per month been offered for taxation in India during the assessment years 2012-13 to 2018-19?

Q3 If the above salary not been offered for taxation, please explain why the above salary per month should not be added to your income for the assessment year 2012-13 to 2018-19?

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|----------|-------------|------------|----------------|------------|-----------------|----------|
| Saturday | 31/ 03/2012 | 1 AED = | 13.8998 INR | AY 2012-13 | 2000x12x13.8998 | 333595.2 |
| Sunday | 31/03/2013 | 1 AED = | 14.804 INR | AY 2013-14 | 2000x12x14.804 | 355296.0 |
| Monday | 31/03/2014 | 1 AED = | 16.3314 INR | AY 2014-15 | 2000x12x16.3314 | 391953.6 |
| Tuesday | 31/03/2015 | 1 AED = | 17.0031 INR | AY 2015-16 | 2000x12x17.0031 | 408074.4 |
| Thursday | 31/03/2016 | 1 AED = | 18.0516 INR | AY 2016-17 | 2000x12x18.0516 | 433238.4 |
| Friday | 31/03/2017 | 1 AED = | 17.6533 INR | AY 2017-18 | 2000x12.17.6533 | 423679.2 |
| Saturday | 31/03/2018 | 1 AED = | 17.7187 INR | AY 2018-19 | 2000x12x17.7187 | 425248.8 |

The assessee has denied to have received salary from M/s. Richr Business Services. The assessee has not explained as to why this certificate was found on the mobile phone of Sh. Devash Gupta and seized as per Annexure-AI from G-190, Preet Vihar, Delhi-92. Therefore, salary amounting to Rs. 3,33,595/- received by the assessee and not offered for tax in India is hereby added to the income of the assessee under the head salary as per I.T. Act, 1961 on account of concealed global income.

4. Aggrieved the assessee filed appeal before the Id CIT(A). The relevant part of the order of the Id CIT(A) is as under:-

"From the details furnished by the appellant, it is observed that the appellant visited Dubai during the year only for four days. M/s Richr Business Services, Dubai, does not have any business operations in India. The appellant has clearly denied having earned the above income and stated that the salary certificate is not signed by the appellant. The appellant filed return of income as resident showing that he was in India for more than 183 days. The appellant

earned huge income during FY 2011-12 to 2017-18 during which this salary was presumed to be earned. It is difficult to believe that the appellant would have worked at salary of AED 2000 (INR 40,000 approx.) per month for Richr Business Services, Dubai when he was staying in India for most part of the year and earning substantial taxable income in India. All the bank accounts of the appellant were examined after search but the above amount was not found credited in any of the bank accounts. In view of the above facts and case laws, it is held that the appellant has been able to successfully rebut the presumption u/s 292C of Income Tax Act and hence, addition of Rs. 3,55,296/- is hereby deleted. Ground Nos. 1 & 2 are allowed."

5. Before us the Id AR relied on the assessment order whereas, the Id DR supported the order of the Id CIT(A).

6. After perusal of the entire material, we are in agreement with the order of the Id CIT(A) and hence, the same is hereby affirmed.

7. The appeal of the revenue is hereby dismissed.

Order Pronounced in the Open Court on 24/02/2023.

Sd/-

(Yogesh Kumar US)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 24/02/2023

Ajay Kumar Keot, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR