

**IN THE INCOME TAX APPELLATE TRIBUNAL  
ALLAHABAD 'SMC' BENCH, ALLAHABAD  
(HEARD BY DB)  
BEFORE SHRI.VIJAY PAL RAO, JUDICIAL MEMBER  
AND  
SHRI. RAMIT KOCHAR, ACCOUNTANT MEMBER**

**ITA No.03/ALLD/2023  
Assessment Year: 2021-22**

<b>Brajesh Agrawal, 3/15, Patrika Marg, Civil Lines, Allahabad, U.P. PAN-ACBPA3797R</b>	v.	<b>Asstt. Director of Income Tax, CPC, Bengaluru</b>
(Appellant)		(Respondent)

Assessee by:	Sh. Saurabh Agrawal, C.A.
Respondent by:	Sh. A.K. Singh, Sr. DR
Date of hearing:	14.03.2023
Date of pronouncement:	24.03.2023

**ORDER**

**SHRI VIJAY PAL RAO, J.M.:**

This appeal by the assessee is directed against the order dated 08.11.2022 of CIT(A) (National Faceless Appeal Centre, Delhi) for the assessment year 2021-22. The assessee has raised the following grounds:-

*"1. Because the authorities below have erred in law and on facts in making additions aggregating to Rs. 15,21,060/- (rounded up) made up as under:-*

<i>Rental Income</i>	<i>11,26,000.00</i>
<i>Interest on PPF</i>	<i>3,41,127.00</i>
<i>Interest on S.B. A/c</i>	<i>30,185.00</i>
<i>Interest on FDR</i>	<i>2,771.32</i>
<i>Dividend Received</i>	<i>4,713.89</i>
<i>Interest on Bonds</i>	<i>16,260.00</i>
<i>Total (Rs.)</i>	<i>15,21,057.21</i>

*without considering the fact that aforesaid sum/income had already been offered to taxation by the appellant in his original return of income filed under section 139(1) of*

*the Income-tax Act, 1961 under the respective heads of income to which they are taxable/assessable.*

*2. BECAUSE addition of Rs. 15,21,060/- had been made and confirmed by the authorities below merely on the basis of disclosure made by the Tax Auditor in Clause No.16(d) to his tax audit report furnished in Form 3CB read alongwith annexure marked as Form 3CD to the audit report and the authorities below have failed to bring on record any evidence which could lead to a conclusion that income aggregating to Rs.15,21,060/- has not been considered by the appellant in his return of income originally filed under section 139(1) of the Income-tax Act, 1961.*

*4. BECAUSE addition of Rs.15,21,060/- confirmed by the CIT(A) merely on technical reasoning reading as under:*

*"It is pertinent to note that in the automated processing of returns u/s 143(1), any variance between Tax Audit Report and the ITR shall result in necessary adjustments in accordance with the provisions of the Act. This process does not involve any detailed investigation of facts or documents other than ITR, Form 3CD etc. Detailed instructions are issued every year by CBDT/DGIT(Systems) as to how the various schedules and entries in different ITR are to be properly filled in and how its consistency with other reports like Form 3CD are to be ensured. Processing of return by CPC does not entail any detailed investigation of notes on accounts and or final accounts etc. as is being sought by the appellant, since it is not permitted under the scope and ambit of the provisions of Section 143(1) of the Act."*

*(Para 4.5 of the appellate order)*

*without going to the facts of the case that income has already been offered to taxation in the original return of income under section 139(1) of the Income-tax Act, 1961 is wholly bad in law and on facts of the case.*

*5. BECAUSE the order appealed against is contrary to the facts, law and principles of natural justice."*

2. The learned AR of the assessee has submitted that the assessee filed his return of income on 15.03.2022 within the extended due date of filing the income tax under section 139(1) of the Income Tax Act. The return of income was processed under section 143(1)(a) of the Income Tax Act whereby an adjustment / addition of Rs. 15,21,060/- has been made by the CPC, Bengaluru. He has pointed out that this adjustment amounts to double taxation of the income which was already declared in the return of income under the head, "income from house property" and "income from other

sources". He has referred to the return of income filed by the assessee and submitted that in the computation of income, the assessee has declared income from house property at Rs. 7,88,200/- after claiming the deduction under section 24(a) of the Income Tax Act. The assessee has also declared income from other sources being interest from saving bank account, interest from FDR, other item and dividend from shares total amounting to Rs. 3,37,670/-. The assessee has specifically given the details of exempt income of PPF interest of Rs. 3,41,127/- and interest on REC bonds of Rs. 16,260/- total amounting to Rs. 3,57,387/-. The assessee has reported a business loss of Rs. 4,37,494/- and after claiming setting off brought forward depreciation, the business income reported by the assessee at loss of Rs. 7,63,940/-. Thus, the learned AR has submitted that the assessee explained each and every item of the income has been duly declared in the return of income however, the CPC, while processing the return of income has made the adjustment on account of rental income, interest on PPF, interest on saving bank account, interest on FDR, dividend income and interest on REC bonds total amounting to Rs. 15,21,057/-. Since, the income from house property was already declared by the assessee in the return of income and also part of the processing under section 143(1) of the Act therefore, there is a double taxation of the said income on account of the rental income. Similarly, the interest on saving bank account, interest on FDR, dividend income were also separately declared in the return of income but the same were also part of the adjustment / addition made by the CPC which resulted the double taxation of the said income. He has further pointed out that the interest on PPF and interest on REC Bonds are exempt income specifically reported in the return of income under the head exempt income but the CPC has made the adjustment and addition on account of these exempt incomes also. Hence, the

learned AR has pointed out that the adjustment made by the CPC is nothing but the items which are reported in the tax audit report under Clause No. 16(d) representing any other income apart from the items of income within the scope of section 28 required to be reported in Clause 16(a) of the Audit report in Form 3CB. Thus, the learned AR has submitted that the adjustment has been made mechanically and resulted double taxation of certain incomes as well as the taxation of exempt income which is highly unjustified. He has referred to the written submissions filed before the CIT(A) and submitted that the assessee has specifically pointed out in the written submissions as well as the grounds of appeal before the CIT(A) that the adjustment made by the CPC, while processing the return of income under section 143(1)(a) has resulted in double taxation of the same income on account of rental income, interest on saving bank account, interest on fixed deposit and dividend income. Apart from double taxation it has also taxed the exempt income on account of interest on PPF account and interest on REC Bonds. The learned AR has pointed out that the interest on REC Bonds is exempted under section 10(15)(iv)(h) of the Income Tax Act. He has also referred to the bonds certificate dated 29.03.2012 issued by the Rural Electrification Corporation Limited wherein it is specifically mentioned that these are tax free secured redeemable, non-convertible bonds having tax benefit under section 10(15)(iv)(h) of the Income Tax Act. He has also referred to the bank account statement wherein the interest of Rs. 16,260/- has been credited on 1<sup>st</sup> July, 2020 with specific narration of REC tax free bonds. Thus, the learned AR has submitted that it is a case of gross negligence on the part of the CPC as well as non-application of mind by the CIT(A) while passing the impugned order. Therefore, the learned AR has pleaded that the addition / adjustment made by the CPC be deleted.

3. On the other hand, the learned DR has submitted that the adjustment has been made by the CPC based on the tax audit report filed by the assessee wherein in Clause 16(d), the tax auditor has reported this income of Rs. 15,21,057/- not part of profit and loss account of the assessee. He has relied upon the orders of the authorities below.
4. We have considered the rival submissions as well as relevant material on record. The assessee has filed the return of income under section 139(1) of the Act on 15<sup>th</sup> March, 2022 within the extended due date of filing the return of income under section 139(1) of the Act declaring total income of Rs. 1,77,930/- after claiming the deductions under sections 80C, 80TTA, 80D and exempt income under section 10 of the Income Tax Act. In the return of income, the assessee has declared business loss of Rs. 7,63,940/- and income from house property of Rs. 7,88,200/-. The assessee has also declared income from other sources at Rs. 3,37,670/- comprising of interest from saving bank account, interest on FDR, other items and dividend income. The assessee also claim exempt income and given the details in the return of income regarding interest on PPF of Rs. 3,41,127/- and interest on REC bonds of Rs. 16,260/- total amounting to Rs. 3,57,387/-. It is apparent from the return of income and computation of the income that for the year under consideration, the assessee has reported business loss of Rs. 4,37,494/- and then claimed set off of brought forward depreciation of Rs. 3,26,446/- which has resulted net income from business and profession as loss of Rs. 7,63,940/-. The said return of income was processed by the CPC, vide order dated 11.08.2022 whereby an adjustment of Rs. 15,21,057/- was made as per Sr. No. 23 of annexure to computation of income from business or profession. The CPC has then allowed the current year's business loss of Rs. 4,37,494/- and net amount of Rs. 10,83,563/- was added to the income from house property and

income from other sources declared by the assessee. Thus, the total income of the assessee was computed by CPC at Rs. 16,98,990/- as against the declared income of Rs. 1,77,930/-. On careful perusal of the intimation of processing of return of income by the CPC under section 143(1) and the tax audit report in Form 3CB, we find that the tax auditor has reported in Clause 16(a) to 16(d) as under:-

**Acknowledgement Number 191975550140222**

FORM 3CB [See rule 6G(2)]

Statement of particulars required to be furnished under Section 44AB of the Income Tax Act, 1961

PART-A

1. \*\*\*\*\*
2. \*\*\*\*\*
3. \*\*\*\*\*
4. \*\*\*\*\*
5. \*\*\*\*\*
6. \*\*\*\*\*
7. \*\*\*\*\*
8. \*\*\*\*\*
9. \*\*\*\*\*
10. \*\*\*\*\*
11. \*\*\*\*\*
12. \*\*\*\*\*
13. \*\*\*\*\*
14. \*\*\*\*\*
15. \*\*\*\*\*

16. Amounts not credited to the profit and loss account, being:-

(a). The items falling within the scope of section 28:

Sl. NO.	Description	Amount
		0

(b). the proforma credits, drawbacks, refunds of duty of customs or excise or service Tax or refunds of sales tax or value added tax or Goods & Service Tax, where such Credits, drawbacks or refunds are admitted as due by the authorities concerned:

Sl. NO.	Description	Amount
	No records added	

©. Escalation claims accepted during the previous year:

Sl. NO.	Description	Amount
	No records added	

(d). any other item of income:

Sl.	Description	Amount
1	Rental Income	₹11,26,000
2	Interest on PPF	₹3,41,127
3	Interest on SB A/C	₹30,185
4	Interest on FDR	₹2,771
5	Dividend	₹4,714
6	Interest of Bonds	₹16,260

(e) Capital Receipt, if any:

Sl. NO.	Description	Amount
1	LIC Survival Benefit	₹ 11,21,500

XXXXXXX

XXXXXXX

XXXXXXX

XXXXXXX

XXXXXXX

5. It is clear that Sub-Clause (d) of Clause 16 of the audit report describes any other item of income which is entirely different from the item of income falling within the scope of section 28 as per Sub Clause (a) of Clause 16 of Form 3CB. Though, the Tax Auditor reported this income under Clause 16(d) of Form 3CB however, the nature of income as evident from the description is clearly non business income. Therefore, a mere mistake on the part of the Tax Auditor in reporting the income not forming part of business income of the assessee in Clause 16(d) would not *ipso-facto* lead to addition or adjustment in the business income particularly when the assessee has already declared the said income in the return of income under respective heads of income as well as claimed exempt the income under Section 10 of the Income Tax Act. The CPC has taken the total of these items as reported in Clause 16(d) of Form 3CB amounting to Rs. 15,21,057/- and made the adjustment under the head any other item or items of addition under Section 28 to 44DA as per Sr. No. 23 of Annexure to computation of income as under:

	<i>Particulars</i>	<i>As provided by taxpayer</i>	<i>Amount in ₹ As computed u/s 143(1)</i>
23.	<i>Any other item or items of addition under section 28 to 44DA</i>	0	15,21,057/-

6. This adjustment made by the CPC firstly resulting double taxation of the income already declared by the assessee under the head income from house property and income from other sources and secondly it has also resulted the taxation of the exempt income derived by the assessee as interest on PPF account and interest on REC tax free bonds. The assessee has specifically claimed these two items being interest on PPF account and interest on REC bonds as exempt income under section 10. The learned DR has not disputed that the interest on PPF account as exempt income and further we find that the interest on tax free REC bonds is also exempted as per section 10(15)(iv)(h). For ready reference, we quote section 10(15)(iv)(h) as under:-

*“Section 10:- In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included-*

xxxxxxxxx

(15) .....

xxxxxxxxx

(iv) interest payable-

xxxxxxxxx

xxxxxxxxx

*[(h) by any public sector company in respect of such bonds or debentures and subject to such conditions, including the condition that the holder of such bonds or debentures registers his name and the holding with that company, as the Central Government may, by notification' in the Official Gazette, specify in this behalf;]*”

7. Thus, when the REC tax free bonds were issued with the specific notification that the benefit of tax under section 10(15)(iv)(h) of the Income Tax Act is

available on these bonds then there is no question of taxing and making the adjustment of interest on REC bonds by the CPC and the same is highly unjustified. The assessee before the CIT(A), has raised this specific issue in the grounds of appeal which are reproduced by the CIT(A) in para 2 of the impugned order. The assessee has also filed the written submissions before the CIT(A) and specifically explained that the incomes which are reported in the tax audit report in Form 3CB under Clause 16(d) has already been declared by the assessee in the return of income under the head income from house property and income from other sources and therefore to that extent, it is double taxation of the said income by the CPC. Further, the assessee has explained that the two items of income being interest on PPF and interest on REC tax free bonds are exempt income duly reported in the return of income and addition made by the CPC in respect of these items is unjustified as tax free income has been taxed. The CIT(A) without considering the main grievance of the assessee regarding double taxation of the income already declared by the assessee in the return of income as well as taxation of the exempt income has confirmed the adjustment / additions made by the CPC by ignoring the bare facts available on record in the return of income, submissions of the assessee as well as the facts reported in the tax audit report. It is not the case that the assessee has claimed the rental income and interest income on saving bank and FD as well as dividend income are not liable to be taxed but the assessee has pleaded before the CIT(A) that these incomes are already declared by the assessee and due tax was paid while filing the return of income. This fact has been completely ignored by the CIT(A) while passing the impugned order. Further the two item of income being interest on PPF and interest on REC bonds which are exempt incomes under section 10 of the Income Tax Act are also overlooked by the CIT(A)

while passing the impugned order. It appears that the CIT(A) has simply confirmed the adjustments made by the CPC by referring to the guidance note on the tax audit under section 44AB of the Income Tax Act and ignoring relevant and crucial fact that the rental income as well as income from other source has already been declared by the assessee in the return of income and adjustment to that extent has resulted double taxation of the income already declared by the assessee and further the exempt income has been taxed by the CPC which is absolutely against the provisions of the Income Tax Act. Hence, we find that the impugned order has been passed by the CIT(A) mechanically without application of mind which has forced the assessee to file this second appeal and suffered financial loss on account of appeal fee of Rs. 10,000/- and the litigation expenditure including the counsel fees etc., as well as mental agony and suffering therefore, this Bench takes a serious view of the matter regarding the callous approach of the CIT(A) while passing the impugned order. Accordingly, the additions / adjustments made by the CPC are deleted. A copy of this order be sent to Chairman, C.B.D.T. for taking appropriate steps / measures to avoid the hardship, harassment and suffering of honest tax payers.

8. In the result, the appeal of the assessee is allowed.

Order pronounced on 24.03.2023 at Allahabad, U.P.

**Sd/-**  
**[RAMIT KOCHAR]**  
**ACCOUNTANT MEMBER**  
Dated:24/03/2023  
Allahabad

sh

**Sd/-**  
**[VIJAY PAL RAO]**  
**JUDICIAL MEMBER**

Copy forwarded to:

1. Appellant-Sri. Brajesh Agrawal
2. Respondent-Asstt. Director of Income Tax, CPC, Bengaluru
3. CIT(A), Allahabad
4. CIT
5. DR

By order  
Sr. P.S.