

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri R.K. Panda, Accountant Member
AND
Shri Laliet Kumar, Judicial Member

ITA No.586/Hyd/2022		
Assessment Year:2018-19		
Dy. C. I. T (International Taxation) – I Hyderabad (Appellant)	Vs.	Mrs. Nandita Pathak Hyderabad PAN:CROPP0339J (Respondent)
Assessee by:	Shri S. Vijay Aditya, Advocate	
Revenue by:	Shri KPRR Murthy, CIT(DR)	
Date of hearing:	27/03/2023	
Date of pronouncement:	27/03/2023	

ORDER

Per R.K. Panda, A.M

This appeal filed by the Revenue is directed against the order dated 11/08/2022 of the learned CIT (A)-10, Hyderabad relating to A.Y.2018-19.

2. Facts of the case, in brief, are that the assessee is an individual and was employed with Amazon Development Centre (India) Pvt. Ltd for the impugned A.Y 2018-19. She had filed her return of income declaring total income at Rs.53,72,850/-. The case was selected for limited scrutiny through CASS to verify "Large Investment in foreign assets-immovable property". The Assessing Officer issued statutory notices u/s 143(2) and 142(1) of the Act to the assessee to furnish the details along with

supporting documents regarding large investment in foreign immovable property. The assessee in her response submitted that she jointly owns one house property in US with her spouse which was let out during the year. Since the investment towards the property was jointly made by her and her spouse in the ratio of 50:50, 50%, the house property income (after considering the possible deductions) has been accordingly offered for tax in India in the tax return filed for the A.Y. 2018-19. Balance 50% of the house property income has been offered in the hands of her spouse. However, there was no response from the assessee regarding the source of investment in foreign immovable property as called for by the Assessing Officer as per the questionnaire. In view of the above, the Assessing Officer completed the assessment u/s 143(3) r.w.s. 144B of the I.T. Act, 1961 assessing the income of the assessee at Rs.2,03,22,600/-.

3. In appeal, the learned CIT (A) on the basis of certain documents filed by the assessee evidencing the purchase of foreign asset in 2006, deleted the addition made by the Assessing Officer.

4. Aggrieved with such order of the learned CIT (A) the Revenue is in appeal before the Tribunal by raising the following grounds:

“1. The order of the Ld.CIT(Appeals) is erroneous in law and on the facts of the case.

2. The Ld.CIT(Appeals) erred in accepting the self-serving documents not corroborated by evidence and which had not stood the test of enquiries in assessment proceedings.

3. The Ld.CIT(Appeals) erred in not allowing the AO to examine the additional evidence admitted by him as per the provisions u/s 46A(3) of the I.T Rules 1962.

4. The appellant craves leaves to add, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if considered necessary”.

5. The learned DR referring to the order of the CIT (A) submitted that the learned CIT (A) without affording any opportunity to the Assessing Officer accepted certain evidences filed by the assessee and deleted the addition in violation of provisions of Rule 46A(3) of the I.T. Rules. He submitted that without providing an opportunity to the Assessing Officer, the learned CIT (A) could not have accepted the additional evidences and deleted the addition. He accordingly submitted that the order of the CIT (A) be reversed and that of the Assessing Officer be restored.

6. The learned Counsel for the assessee, on the other hand, strongly supported the order of the learned CIT (A). He submitted that the assessee filed the necessary documentary evidence for purchase of the foreign asset as directed by the CIT (A) and therefore, there is no violation of provisions of Rule 46A(3) of the I.T. Rules. He submitted that the learned CIT (A) after verifying the details has passed the order which is justified and therefore, the same should be upheld and the grounds raised by the Revenue should be dismissed.

7. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us by both sides. We find the AO in the instant case made addition of Rs.1,49,49,750/- on the ground that the assessee did not file any explanation regarding the investment in the foreign immovable

property being 50% of her share of the total investment of Rs.2,98,99,500/-. We find the learned CIT (A) on the basis of certain documents filed by the assessee deleted the addition without calling for any remand report from the Assessing Officer or without giving any opportunity to the Assessing Officer to verify the documents. In our opinion, since the assessee had not filed the documentary evidence before the Assessing Officer to explain the source of the investment in foreign immovable property as called for by the Assessing Officer, therefore, the learned CIT (A) was duty bound to give an opportunity to the Assessing Officer to verify the documents filed by the assessee during the course of appeal proceedings. Therefore, there is clear violation of provisions of Rule 46A(3) of the I.T. Rules. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant one opportunity to the assessee to substantiate her case by filing the requisite details and decide the issue as per fact and law. We hold and direct accordingly. The grounds raised by the Revenue are accordingly allowed for statistical purposes.

8. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the Open Court at the time of hearing itself i.e. on 27th March, 2023.

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 27th March, 2023
Vinodan/sps

Copy to:

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3	CIT -10 ,Hyderabad
4	Pr. CIT-, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order