

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E' NEW DELHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND  
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

**ITA No. 151/Del/2016  
Assessment Year: 2010-11**

Raman Singh Sidhu,  
C/o R.S. Ahuja & Co., CA,  
C-353, Defence Colony,  
New Delhi.

**PAN: AAMPS1070J**  
(Appellant)

Versus ACIT, Central Circle-31,  
New Delhi

(Respondent)

Appellant by : None

Respondent by : Ms. Sarita Kumari, Ld. CIT/DR

Date of hearing: 14.03.2023

Date of order : 29.03.2023

**ORDER**

**PER N.K. CHOUDHRY, J.M.**

This appeal has been preferred by the Assessee against the order dated 27.10.2015, impugned herein, passed by the learned Commissioner of Income-tax (Appeals)- 30, New Delhi (in short "Ld. Commissioner"), u/s. 250(6) of the Income-tax Act, 1961 (in short 'the Act') for the assessment year 2010-11.

**2.** The Assessee has raised following grounds of appeal:

(A) *That on the Law, facts and circumstances of the case the learned ITO and the CIT(A) erred in :*

- 1) *Upholding the Assessment & addition of s.5,10,730/- as interest purely on a notional basis without any evidence.*
- 2) *Without prejudice to what has been said above it is stated that the said account has been closed in A.Y. 2009-10 & money has been remitted to India.*
- 3) *Not giving relief to the Assessee of s.1,67,543/- on account of excess annuity received.*
- 4) *Confirming on addition of Rs.36,184/- on account of unexplained income."*

**3.** For the sake of brevity, we are inclined to decide this appeal ground-wise.

**4.** Ground No. (A)(1) and (2) pertains to the upholding of the assessment and affirming the addition of Rs.5,10,730/- as interest on a notional basis, by the Id. Commissioner. We observe that the Assessing Officer made the addition of Rs.5,10,730/- by holding as under:

*"7. During the year under consideration, the assessee has neither furnished statement of his account in HSBC Bank, Geneva nor any accretion on the amount of deposits/investments in HSBC Bank, Geneva has been shown. It may be mentioned here that account*

*statement of Geneva Bank was also not furnished for the preceding year i.e. assessment year 2009-10 also, therefore, addition of USD 10356.84 was made on account of accruals on the deposits/investments appearing to the credit of the assessee on the opening day of that year by calculating the accruals @ 4%. Therefore, in the absence of any bank statement or any other information in this regard, the income on the deposits/investment in HSBC Bank, Geneva is calculated as was calculated in the preceding year. The credit balance to the credit of the assessee on the opening day of the year under consideration in HSBC Bank, Geneva was USD 269277.88 [ USD 258921 as on 01.04.2008 + accretion of USD 10356.04 during FY 2007-08], therefore, accruals on these deposits/investments is worked out @ 4% of such deposits/investments which works out to USD 10771.12 [USD 269277.88 X 4%] and its exchange value calculates to Rs.5,10,730/-[value of USD 10771.12 in rupee at average rate of 47.4166 per \$], which is added in the total income of the assessee from the undisclosed sources.*

*Account statement of the assessee in HSBC Bank, Geneva is in French version, the copy of which is enclosed herewith as Annexure - A and forms a part of this order made u/s 153A of Income Tax Act.*

*Penalty proceedings u/s 271(1) (c) for concealment of particulars of income is being initiated separately.”*

***[Addition of Rs.5,10,730/-]***

**4.1** The Assessee before the Id. Commissioner, by filling its written submission vide letter dated 06.08.2015 against the aforesaid addition, claimed as under:

*“4.2. During the appellate proceedings, Ld. A.R. has filed written submission vide letter 06.8.2015, which is reproduced as under:-*

**“GROUND NO. 1**

*The learned DC IT has made an addition of Rs. 510730 on account of accruals on the balance in HSBC -Geneva calculated @4% per annum on the opening balance and converting the same at a certain exchange rate arbitrarily and purely on notional basis without any supporting document and material and without any confirmation from the bank. There is no evidence or proof cited by the learned DCIT in his order the assessee has either received the interest and /or the same is due to him as accrual. There is no provision in the income tax act to include in taxable income amounts on notional basis. Your kind attention in this respect is invited to the case of Band A Plantations & Industries Ltd. v CIT (2001) 117 Taxman 323(GAU) where " if the assessee had not bargained for interest or had not collected interest, we fail to see how income-tax authorities can fix a notional interest as due, or collected by the assessee: Our attention has not been invited to any provision of the Income Tax Act empowering the income tax authorities to include in income interest which was not due or collected. "*

*The Hon 'ble Delhi High Court in a recent case of M/S Shivnandan Buildcon Pvt. Ltd. & M/S Om Shiv Buildcon Pvt. Ltd. v CIT (W.P. (C)6265/2013 date of decision 30.04.2015) has held 'unless and until there was a concrete finding that something was received by the assessee from M/S Smart Tourist Pvt. Ltd. ,nothing can be added as notional income. It has been further held that 'in the absence of specific provision under which the so called notional income on advances could be brought to tax ,the impugned orders passed by the CIT cannot be sustained. '*

*In view of above there cannot be added to the income any accrual on account of interest on notional basis. Hence, the addition of Rs.5,10,730/- made by the learned DCIT on account of accrual on account without any support or document and purely arbitrarily and on notional basis needs to be deleted."*

**4.2** The learned Commissioner, by considering the assessment order passed by the Assessing Officer and the written submission, affirmed the said addition of Rs.5,10,730/- by holding as under :

*“4.4. I have carefully considered assessment order, written submission and oral arguments of Ld. AR. The objections/arguments of the appellant are discussed as under:-*

*(i) There is no dispute regarding the fact that the appellant was having the bank account in HSBC, Geneva, in the joint name with his wife, Smt. Rupinder Dhanoa Sidhu. In the assessment proceedings, the appellant has .stated before the A.O. that the amount lying in this account was withdrawn in cash and was utilized outside India. However, before the A.O. no evidence to such claim was produced/filed and therefore, this claim of withdrawal in cash and utilization of the fund was not substantiated. Therefore, the A.O. has determined the amount of accrual on the balance deposits in this account, by taking the rate @ 4% p.a. on accrual basis. Accordingly, determined the total accrual at Rs. 5,10,730/-, which has been added by the A.O. to the total income of the appellant.*

*(ii) During the appellate proceedings, the appellant has reiterated the same arguments, which were placed before the A.O.. Now in the appellate proceedings, the affidavit dated 22.6.2015 of the appellant, has been filed for the claim that HSBC, Geneva, account was closed in the year 2009. However, no independent proof has been filed, except this affidavit. On perusal of the affidavit, year 2009 is mentioned and no exact date of the closer of this account is mentioned. Now, the appellant has submitted that the entire balance available in the HSBC, Geneva account was repatriated in the saving bank account of Standard Chartered Bank no. 533-1-002739-4, in the year 2009, claimed to have been credited on 28.01.2009 and 11.02.2009. The*

*above claim of the appellant is not acceptable for the following reasons:*

- *The exact date of closure of the HSBC, Geneva account is not substantiated,*
- *It has been claimed that in the year 2009, the entire balance was withdrawn in cash and it was submitted before the A.O. that this entire withdrawal was utilized outside India.*
- *Another claim of the appellant that the entire balance was transferred to the standard Chartered Bank Account of the appellant, is also not substantiated, as the withdrawal from HSBC, Geneva account was claimed as cash withdrawal, whereas the two entries claimed to be relating to the same amount, is on account of transfer of fund.*

*From the above discussion, it is clear that this new claim is not substantiated with any documentary evidence to prove that same money withdrawn in cash from HSBC, Geneva, is deposited in the Standard Chartered Bank Account of the appellant in India. Therefore, this affidavit cannot be relied upon, which is nothing but a self-serving document and the claim of the appellant that no accrual has taken place, in the HSBC, Geneva account, is not proved. In earlier years, the appellant has included such accrual on the deposits in this HSBC bank account, in the total income disclosed in the return of income filed in response to notice u/s 153A. However, the appellant failed to show any income from accrual on the balance and therefore, I agree with the findings of the A.O. in the assessment order. The case laws relied upon by the appellant have also been carefully considered and are not applicable, as same are distinguishable to the facts of the appellant.*

*In view of the above, I do not find any infirmity in order of the A.O. and addition of Rs. 5,10,730/-, is hereby confirmed.”*

**5.** We have given thoughtful consideration to the findings of the Id. Commissioner on the issue in hand and do not find any

reason and / or material to contradict the findings of the Id. Ld. Commissioner in confirming the addition in hand, hence inclined not to interfere in the decision of the Id. Commissioner on this issue. Consequently, **Grounds no. A(1) & (2) are dismissed.**

**6.** Ground No. **A(3)** pertains to the addition of Rs.1,67,543/- on account of excess annuity received. The Assessing Officer made this addition for the following reasons:

*“Explanation of the Assessee that the credit entry of Rs.1,67,543/- represents LIC annuity which has already been included in the total income is not correct. As per Form 16, gross amount of LIC annuity received was Rs.1,86,924/- out of which amount of Rs.2772/- was deducted at source meaning thereby that the net amount of LIC annuity paid to the Assessee was Rs.1,84,152/- (186924/- minus 2772) whereas credit entry appearing in bank statement is of Rs.1,67,543/-. In view of this fact, credit entry of Rs.1,67,543/- remains unexplained.”*

**6.1** The Id. Commissioner by considering the written submissions filed by the Assessee, realized that from the claim of the Assessee as per Form No. 26AS for TDS and Form 16, there is difference in the gross and net figures and therefore, directed the Assessee to reconcile the figures before the Assessing Officer and also directed the Assessing Officer to delete the amount to the extent it is reconciled, after being satisfied itself from the reconciliation statement to be submitted

by the Assessee and finding the claim of the Assessee to be correct.

**7.** We have given thoughtful consideration to the findings of the Id. Commissioner and do not find any reason and/or material to contradict such findings. Hence, ground No. A(3) stands dismissed.

**8.** Ground No. A (4) pertains to the addition of Rs.36,184/- on account of unexplained income, which was considered as unexplained by considering the entry dated 23.02.2010 of Rs.36,184/- in the Standard Chartered Bank Account No.533-1-002739-4. The Id. Commissioner by considering the peculiar facts *that the Assessee offered no explanation in the remand proceedings and in the appellate proceedings as well, therefore, this deposit entry of Rs.36,184/- remains unexplained* , confirmed the said addition.

**9.** We have given thoughtful consideration to the peculiar facts and circumstances and do not find any reason and/or material to contradict the findings of the Id. Commissioner on the issue in hand, consequently, inclined not to interfere in the decision taken by the Id. Commissioner on this issue.  
**Consequently, ground No. A(4) also stands dismissed.**

**10.** In the result, the appeal filed by the Assessee stands dismissed.

Order pronounced in the open court on 29.03.2023

Sd/-

Sd/-

**(ANIL CHATURVEDI)**  
**ACCOUNTANT MEMBER**

**(N.K. CHOUDHRY)**  
**JUDICIAL MEMBER**

\*aks/-

Copy forwarded to:

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

Assistant Registrar  
ITAT New Delhi

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