

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI**  
**(DELHI BENCH 'F' : NEW DELHI)**  
**BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER**  
**AND**  
**SH. ANUBHAV SHARMA, JUDICIAL MEMBER**  
**ITA No. 5616/Del/2017, A.Y. 2014-15**

ACIT, Central Circle-7 New Delhi	Vs.	Sh. Vikram Dhirani D-1039, New Friends Colony, New Delhi PAN : AHTPD6528L
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	Sh. P.C.Yadav, Adv. & Sh. Shivam Garg, Adv.
Respondent by	Ms. Princy Singla, Sr. DR

Date of hearing:	03.05.2023
Date of Pronouncement:	09.05.2023

**ORDER**

**PER ANUBHAV SHARMA, JM:**

The appeal has been preferred by the Revenue against the order dated 23.06.2017 of CIT(A)-24, New Delhi (hereinafter referred as Ld. First Appellate Authority or in short Ld. 'FAA') arising out of an appeal before it against the order dated 28.09.2016 passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter referred as 'the Act') by the ACIT, Central Circle-07, New Delhi (hereinafter referred as the Ld. AO).

2. Heard and perused the record.
3. The facts of the case are that the assessee is individual and main source of income comprising was from salary, house property and capital gains. A search took place on M/s. Dhirani group of cases on 28<sup>th</sup> July, 2011. A search

was also conducted upon a warrant of authorization in the name of assessee at D-1039, New Friends Colony, New Delhi. Notice u/s 153A of the Act was issued on 21.05.2012 requiring assessee to file the return for the relevant assessment years. Assessee filed the returns. Thereafter notice u/s 142(1) along with questionnaires were issued and accordingly assessment was completed.

3.1 In regard to assessment year 2007-08, assessee was found to have not disclosed HSBC Bank account at Dubai. Thereafter based on statement of the assessee u/s 132(4) of the Act dated 28.07.2011 and 04.08.2011, the Ld. AO observed that the said account had balanced of 19,15,148 Euros in April, 2006 and applying a conversion rate of Rs. 62 it was treated as undisclosed income of the assessee for the F.Y. 2006-07 relevant to A.Y. 2007-08. Ld. AO also added to the income, interest income on the credit balance up to 31<sup>st</sup> March, 2007 @ Rs. 4% per annum at Rs. 43,53,770/-.

4. Thereafter as a consequence to addition made in assessment year 2007-08 as above, addition of interest income on the credit balance was made in the subsequent assessment years 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13.

5. In appeal Ld. CIT(A) had sustained the substantial addition on account of balance with foreign bank account remaining unexplained however, directing that recomputation be done of the undisclosed income by adopting currency in the relevant bank account as Dollars, instead of Euro, however, the additions on account of interest income in the said account on notional basis was deleted.

6. Ld. AO has made addition in the present assessment year with following findings :-

*“4.1 The contention of the assessee is not acceptable as each assessment year is separate year. Further, the assessee did not disclose his foreign bank account before the Department.*

*During the assessment proceedings, the assessee has neither furnished any details regarding his foreign bank account, nor submits any information regarding interest. Therefore, amount of interest income is worked out @ 4%, which is applied generally as interest rate on saving bank accounts fixed by the nationalized banks on the balance at the close of the earlier year.”*

7. Ld. Counsel submitted that the issue is now covered in favour of the assessee in the light of order dated 17.04.2023 in the case of assessee ***vide ITA no. 4100/Del/2016 & 4475/Del/2016. 1092/Del/2017, A.Y. 2007-08 Title name Sh. Vikram Dhirani vs. ACIT & ITA No.4647to4652/Del/2016, A.Y. 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13 1849/Del/2017, 2007-08 & 6028 to 6032/Del/2016, 2009-10, 2010-11, 2011-12, 2008-09, 2012-13 title name ACIT vs. Sh. Vikram Dhirani.***

Ld. DR however submitted that Ld. AO has observed of the fact that assessee had failed to disclose the particulars of foreign bank account.

8. The contention of Ld. DR has no consequence as no distinguishing fact is cited other than considered earlier in the Co-ordinate Bench order dated 17.04.2023, on which one of us was also in quorum. Disposing of the controversy it was observed in para no. 22 as follows :-

*“22. Eighth Issue is on the basis of the grounds raised by Revenue in appeals with regard to deletion of alleged undisclosed interest income on deposit made in foreign bank account. The first and foremost thing is that as the Bench has concluded that addition on account of any undisclosed balance in a foreign Bank account is itself not established so any addition made on account of notional interest earned in that Bank account is not sustainable. Then the Revenue cannot dispute the fact that so called bank statement of foreign bank account does not show any interest has been credited in the said. There is no evidence brought on record by the Ld. AO that interest was also paid on the deposits/balance in the account peak balance of which has already been added in AYs 2007-08 and 2008-09. Particularly in the subsequent years after the years relevant to AYs 2007-08 and 2008-09 for which there is no statement of the said bank account or any information, as part of the information received under*

*exchange of information or otherwise, in respect of these subsequent years. There is also no error in Ld. CIT(A) holding that it is settled law that notional interest cannot be taxed as income.”*

9. It can be appreciated that for present AY, Ld. CIT(A) has deleted the addition on the basis of the fact that additions made in A.Y. 2007-08 to 2012-13 stand deleted by him. The appeal of the revenue against the deletion for A.Y. 2007-08 to A.Y. 2012-13 stand dismissed by the Co-ordinate Bench with the aforesaid findings. Thus, there is no substance in the grounds raised. **Consequently, the appeal of Revenue is dismissed.**

**Order pronounced in the open court on 9<sup>th</sup> May, 2023.**

Sd/-

(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)  
JUDICIAL MEMBER

Date:-09.05.2023

\*Binita, SR.P.S\*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI