

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI '1' BENCH, MUMBAI.

Before Shri B.R. Baskaran (AM) & Shri Pavan Kumar Gadale (JM)

I.T.A. No. 676/Mum/2023 (A.Y. 2016-17)

I.T.A. No. 677/Mum/2023 (A.Y. 2017-18)

Jaya Ashok Kumar Awasthi C/o. Vatsaraj & Co., CAs 204, 2 <sup>nd</sup> Floor, Inizio Business Centre Premises Cooperative Society Ltd., Andheri East Mumbai-400 099.  PAN : AJWPA5187F (Appellant)	Vs.	ITO, International Taxation Ward-1(1)(1) Room No. 1817A Air India Building Nariman Point Mumbai-400 021.  (Respondent)
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Assessee by	None
Department by	Shri Soumendu Kumar Dash
Date of Hearing	16.05.2023
Date of Pronouncement	16.05.2023

ORDER

PER BENCH:-

The assessee has filed this appeal for AY 2016-17 and 2017-18 challenging the assessment orders passed by the assessing officer u/s 143(3) r.w.s 144C of the Act in pursuance of directions given by Ld Dispute Resolution Panel (DRP). As common issues are agitated in these appeals, both were taken up together for hearing.

2. None appeared on behalf of the assessee. Even though the documents have been certified by a firm of Chartered Accountant, yet no letter of authority in their favour has been filed. Hence, we proceed to dispose of the appeal ex-parte, without the presence of the assessee.

3. In both the years, the assessee is aggrieved by the assessment orders in respect of addition made towards income from house property and also in not giving DTAA benefits.

4. The Ld D.R submitted that the assessee is a non-resident, carrying on business in Dubai. Hence she may be eligible for treaty benefits. However, the assessee has not filed "Tax Residency Certificate" (TRC) in order to avail treaty benefits. Hence the treaty benefits were not extended to the assessee by the AO. Further, the assessee has not furnished proper details regarding rental income of two properties owned by her in India. In the absence of proper details, the AO has estimated the rental income on the basis of market enquiries and assessed the same. The Ld DRP confirmed the additions. In respect of DTAA benefits, the Ld DRP noticed that the assessee has filed the TRC in the paper book filed for AY 2017-18. Hence the Ld DRP has directed the AO to examine the claim of the assessee for DTAA benefits in accordance with law. The Ld D.R submitted that the assessee has not filed TRC for AY 2016-17. He further submitted that the assessee has not furnished any details before the Tribunal. Accordingly, he contended that the assessment orders passed for both the years do not call for any interference.

5. We heard Ld D.R and perused the record. Two issues are being agitated. The first issue relates to the determination of house property income. It is the case of the Ld D.R that the assessee did not furnish proper details relating to rental income earned out of two properties owned by the assessee. We notice that the AO has estimated rental income based on market enquiries, which means, both the assessee as well as the AO has not brought on record actual rental income earned from the properties. Accordingly, we are of the view that the assessee may be provided with one more opportunity to furnish relevant details and accordingly, this issue requires fresh examination at the end of the AO. Accordingly, we set aside the order passed by the AO on this issue in both the years and restore the same to his file for examining it afresh. We also direct the assessee to fully co-operate with the AO by furnishing the details of actual rent received by her from the two properties.

6. With regard to the claim for treaty benefits, we notice that the assessee has filed copy of TRC for AY 2017-18 and did not file TRC for AY 2016-17. Accordingly, we restore this issue also to the file of the AO in both the years and also direct the assessee to furnish all the documents necessary to avail treaty benefits in both the years.

7. In the result, both the appeals of the assessee are treated as allowed for statistical purposes.

Pronounced in the open court on 16.5.2023.

Sd/-  
(PAVAN KUMAR GADALE)  
Judicial Member

Sd/-  
(B.R. BASKARAN)  
Accountant Member

Mumbai; Dated : 16/05/2023

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(Judicial)
4. PCIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

BY ORDER,

(Assistant Registrar)  
ITAT, Mumbai

PS