

**IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” BENCH: RANCHI
VIRTUAL HEARING AT KOLKATA**

[Before Shri Sanjay Garg, Judicial Member & Shri Rajesh Kumar, Accountant Member]

**I.T.A. No.47/Ran/2021
Assessment Year: 2013-14**

Om Prakash Lal (PAN: AAQPL 6435 L)	Vs.	ITO, Ward-2(4), Ranchi
Appellant / (अपीलार्थी)		Respondent / (प्रत्यर्थी)

Date of Hearing / सुनवाई की तिथि	28.02.2023
Date of Pronouncement / आदेश उद्घोषणा की तिथि	06.06.2023
For the Appellant / निर्धारिती की ओर से	Shri Hari Patel, A.R
For the Respondent / राजस्व की ओर से	Shri Pranob Kumar Koley, Sr. D.R

ORDER/ आदेश

Per Rajesh Kumar, AM:

This is the appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)- NFAC, Delhi [hereinafter referred to as ‘Ld. CIT(A)’] dated 14.07.2021 for the assessment year 2013-14.

2. Issue challenged ground nos. 1,2 and 3 is against the confirmation of addition of Rs. 9,41,700/- by Ld. CIT(A) as made by the AO on account of capital gain which which was offered in VDIS, 1997 and was also accepted by the Deptt.

3. After hearing rival contentions and perusing the material on record, we find that undisputedly the assessee has gone into VDIS Scheme, 1997. We find that the assessee is running a very small hotel and the balance sheets prepared and furnished for various assessment years namely . AY 2000-01, 2007-08, 2012-13 and 2013-14, the assessee has disclosed the addition to assets on account of under VDIS Scheme,

1997 Rs. 9,41,700/-. However the AO added the same to the income of the assessee on the ground that documents furnished by the Ld. A.R revealed that though the income was offered under VDIS scheme, but the assessee has not brought forward this asset since 1997 and on this basis addition was duly made. Similarly the Ld. CIT(A) has confirmed this in the appellate order for the reasons that the documents which furnished by the assessee were not authentic. After analyzing the facts on record we are of the view that the addition as sustained by the Ld. CIT(A) is uncalled for and unreasonable as the said amount represented assets declared under VDIS scheme and it is of no consequence whether it was included in the books of account since 1997 or not. Accordingly we set aside the order of Ld. CIT(A) and direct the AO to delete the addition.

4. Issue raised in ground no. 4 is against the charging of interest u/s 234B and C of the Act.

5. Facts in brief are that the interest u/s 234B and C has been charged on the basis of returned income and not on assessed income by the assessee whereas according to the AO it should be charged on the basis of assessed income. We find that the issue needs to be examined at the level of AO. We restore the issue back to the file of AO to compute the interest u/s 234B & C. accordingly ground no. 4 is allowed for statistical purposes.

6. In the result, appeal of the assessee is partly allowed for statistical purposes.

Order is pronounced in the open court on 6th June, 2023

Sd/-

(Sanjay Garg /संजय गर्ग)
Judicial Member /न्यायिक सदस्य

Sd/-

(Rajesh Kumar / राजेश कुमार)
Accountant Member / लेखा सदस्य

Dated: 6th June, 2023

SB, Sr. PS

Copy of the order forwarded to:

1. Appellant- Om Prakash Lal, Cosy Corner, Burdwan Compound, Lalpur, Ranchi-834001
2. Respondent – ITO, Ward-2(4), Ranchi
3. Ld. CIT(A)-NFAC, Delhi
4. Ld. PCIT- , Ranchi
5. DR, Ranchi Bench, Ranchi

True Copy

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata