

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI KULDIP SINGH, HON'BLE JUDICIAL MEMBER AND
SHRI S. RIFAUH RAHMAN, HON'BLE ACCOUNTANT MEMBER**

**ITA NOs. 1994, 1995, 5624 & 5625/MUM/2019
(A.Ys: 2008-09, 2009-10, 2011-12 & 2013-14)**

Chakor L. Doshi 2 nd Floor, Neela House M.L. Dahanukar Marg Mumbai- 400026 PAN: AACPD5799F	v.	DCIT, Central Circle-8(3) Aaykar, Bhavan, M.K. Road Mumbai- 400020
(Appellant)		(Respondent)

Assessee Represented by	:	Mr. P.J. Pardiwala & Ms. Vasanti Patel
Department Represented by	:	Ms. Madhu Malti Ghosh
Date of conclusion of Hearing	:	02.05.2023
Date of Pronouncement	:	21.07.2023

ORDER

PER S. RIFAUH RAHMAN (AM)

1. These appeals are filed by assessee against different orders of the Learned Commissioner of Income Tax (Appeals)-50, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 01.02.2019, 01.02.2019, 16.05.2019 & 16.05.2019 for the A.Y.2008-09, 2009-10, 2011-12 and 2013-14 respectively.

2. Since the issues raised in all these appeals are identical, therefore, for the sake of convenience, these appeals are clubbed, heard and disposed off by this consolidated order. We are taking Appeal in ITA.No. 1994/MUM/2019 for Assessment Year 2008-09 as a lead appeal.

3. Brief facts of the case are, a search and seizure action was carried out u/s. 132 of Income-tax Act, 1961 (in short "Act") in the case of M/s.Walchandnagar Industries Ltd., on 04.12.2012 by the DDIT (Inv.) Unit-II(2), Pune. In the above search assessee was also covered. The original return of income was filed by the assessee on 03.10.2008 declaring total income of ₹.1,34,74,428/-. The Return of income was Processed u/s. 143(1) of the Act by accepting the returned income.

4. Consequent to the search, the case was selected for scrutiny by issue of notice u/s.153A of the Act. In response, assessee filed return of income on 27.06.2014 declaring total income at ₹.1,34,89,990/-. Accordingly, notices u/s. 143(2) and 142(1) of the Act were issued and served on the assessee. In response, authorised representative of the assessee attended and submitted the relevant information as called for.

5. The assessee is an individual and during the year, he has earned income from House Property, income from Profit or Gains of Business/Profession, Capital Gains, and income from other sources.

6. Assessee has offered additional income in the return of income filed in response to notice u/s. 153A of the Act on account of interest received from the overseas bank account in HSBC Private Bank (UK) Ltd., of ₹.15,562/-, which was not offered in the original return of income. Further, Assessing Officer observed that assessee holds an account in HSBC Private Bank (UK) Ltd., London and details of the account and subordinate accounts are mentioned in the Assessment Order. With reference to the above, the assessee was asked to submit the complete bank statement of the account and to explain the nature and source of the credit entries appearing in the bank account. In response assessee has submitted the bank account statement from F.Y.2005-06 to F.Y.2012-13 and explanation with regard to credits appearing in the bank account over the period.

7. From the above statement and explanation, Assessing Officer observed that assessee has not offered for tax in the returns of income filed during the year the following two credits as explained below:

Sr. No.	Date	Amount	Amount in Rs.	Explanation of the assessee
1.	23.07.2007	202.84 GBP	16,091/- (conversion rate of 1 GBP =79.33 Rs. as on 31.03.2008)	Petty cash on hand deposited in the bank account.
2.	08.02.2008	10,00,000 USD	4,00,20,000/- (Conversion rate of 1 USD = 40.02 Rs. as on 31.03.2008)	Transfer on behalf of Lennox Overseas Inc. Against credit balance of assessee with Lennox Overseas Inc.
		Total	4,00,36,091/-	

8. On enquiry assessee has submitted as under: -

'Mr. Chakor L Doshi ('the Assessee') was Non-Resident under Income Tax Act as well as under FEMA from the year 1994. He continued to be Non-Resident under I. T. Act till AY 2001-02 and was Resident But Not Ordinary Resident (RNOR) till AY 2003-04. However, he continues to be 'Non Resident' under FEMA till date.

During the period when he was Non-Resident/RNOR, the Assessee earned income in foreign countries from various sources such as Commission, Fees, Interest, etc

Further the Assessee was, and continues to be, the Consultant to Salome Holdings Inc ('Salome') and group Companies and received remuneration from Salome for his services to the said company.

All the above incomes earned by the Assessee during the above referred period was kept by him with Lennox Overseas Inc, ('Lennox'), a foreign company, and out of said funds, withdrawals were made from Lennox, as and when needed.

From the said amounts lying with Lennox, a sum of USD 1.00 million was withdrawn by the Assessee on 8-02-2008 which sum was

transferred by Lennox from its bank account to the bank account of the Assessee, both accounts with HSBC Pvt Bank (UK) Ltd, London, on 08-02-2008. Thereafter the said sum was remitted from the said bank account of the assessee at London to India to his NRE Account No. 004213110000034 with Bank of India, Tardeo Branch on 11-02-2008

Subsequent to receipt of the remittance in the said NRE account, funds were transferred to the Bank account of assessee's new Proprietary Concern, namely M/s Chiranika Properties' as Proprietor's Capital for its real estate business.

Again a sum of GBP 150000 was withdrawn by the assessee from his funds lying with Lennox on 27-05-2008, which was transferred on behalf of Lennox by Hereford Properties Ltd Inc from its bank account to the bank account of the assessee at London, and subsequently remitted by the assessee to India to his NRE Account with Bank of India, Tardeo branch. The said amount was also transferred to Chiranika Properties as Proprietor's Capital. Chiranika Properties utilized the said funds to purchase lands for its real estate business. The said lands are held by Chiranika Properties as Stock-in-Trade."

9. Further, summons were issued to the assessee and his statements were recorded on oath u/s. 131 of the Act and relevant statement is reproduced at Page No. 4 of the Assessment Order.

10. After considering the submissions of the assessee and statement recorded on oath u/s. 131 of the Act, Assessing Officer observed that assessee has not submitted any documentary evidences to justify the claim that funds available in the foreign bank account were earned outside India and that they had been offered to tax outside India. Accordingly, Assessing Officer proceeded to make the additions as per the bank statement as per which assessee has not declared GBP 202.84 and

USD 10,00,000 (1GBP=79.33 Rs. and 1USD=40.02 Rs. as on 31.03.2008) to the extent of ₹.4,00,36,091/- as unexplained credit in the bank account.

11. Aggrieved with the above order assessee preferred an appeal before the Ld.CIT(A) and filed grounds of appeal as well as detailed submissions before Ld.CIT(A). After considering the detailed submissions and by relying several case law as discussed in his order, Ld.CIT(A) sustained the additions made by the Assessing Officer with the following observations:-

"8.28 I have also taken note of the fact that not even a single transaction have been brought on record by the Appellant, which have been mediated by the Appellant to substantiate the claim of the so-called commission earned by him. Similarly, there is no document on record regarding the so-called fees received by the Appellant. The purpose for payment of fees and the details of services rendered is conspicuous by absence. There is nothing on record to show that the appellant had maintained balance with these Panama based entities. Thus, the reason for a single lump sum entry being passed in the said ledger account at the end of the financial year on 31 March every year had no basis. In the absence of the genuineness of the remuneration being claimed to have been paid by 'Lennox', the said amount had been rightly treated as the unaccounted money of the Appellant.

8.29 If the account statement were to be treated as genuine, then there would have been regular credit entries in the account on the basis of the services rendered by the Appellant. Further, in a genuine account statement there would have been withdrawal of the remuneration on a periodic basis. No employee/ entity rendering service will wait for more than a decade to receive the money from it's employer / principal.

8.30 Thus, the undeniable conclusion is that the credits, which are appearing in the HSBC Pvt. Bank (UK) Ltd, London of the appellant and the NRE account of the appellant maintained with Bank of India, Tardeo branch, Mumbai are unexplained cash credits, as the nature

and source of such credit had not been satisfactory explained by the Appellant, during the course of the proceedings.

8.31 As far as the addition of Rs. 16,091/ (GBP 202.84) is concerned, I have noted that the Appellant had continuously changed his stand, during the course of the various proceedings. In the assessment proceedings, it had been contended this represented petty cash on hand deposited in the foreign bank account. In the letter dated 04.07.2016, before the undersigned the Appellant had stated that this is refund of commission charged by bank against credit card expenses debited earlier. However, the Appellant failed to co-relate these credit entries with the credit card expenses.

8.32 A perusal of the letter dated 05.08.2016 reveals that the appellant had again changed his stand regarding the addition of Rs. 16,091/-, wherein it has been claimed that the same represented commission charged by bank for deposit of small currencies and coins of different countries to convert the same into GBP. Thus, the appellant had given three totally different explanations for the same petty entries before the tax authorities. In view of these unsubstantiated contradictory and conflicting explanations, the addition made by the AO amounting Rs. 16,091/ needs to be confirmed.

8.33 The fact that the unaccounted bank account maintained with HSBC Pvt. Bank (UK) Ltd, London had not been disclosed to the department is absolutely clear from the original return of income filed before the department on 03.10.2008 for the current assessment year under consideration. The interest received by the appellant amounting to Rs. 15,562/- earned from the said foreign bank account had not been offered in the original return of income filed by the Appellant. The undisclosed bank account maintained with HSBC Pot Bank (UK) Ltd, London was detected, during the search and seizure operation conducted on the appellant. Accordingly, when a notice was issued to the Appellant u/s 153A on 09.05.2014, the appellant had revised upward the original return of income from Rs. 1,34,74,428/- to Rs. 1,34,89,990/-.

8.34 Thus, it was only after the search operation was carried out on the appellant u/s 132 on 04.12.2012 that the Appellant's undisclosed foreign bank account came to the light and the interest income earned by the appellant on the balance maintained with the said bank account amounting to Rs.15,562/- was offered in the return of income filed u/s 153A of the Act.

8.35. These facts are further buttressed from the findings of the Assessing Officer in Para 5 of the assessment order, wherein penalty

proceedings u/s 271(1)(c) of the Act had been initiated against the appellant, separately for concealing the interest income.

8.36 I have also noted that Lennox Overseas Inc., Salome Holdings Inc & Hereford Properties Ltd Inc are all companies registered in the Republic of Panama, a tax heaven. The Republic of Panama is considered one of the most well-established tax havens in the Caribbean due to extensive legislation that strictly regulates the country's offshore jurisdiction and financial services.

8.37 Panama's offshore jurisdiction offers a wide array of excellent financial services, including offshore banking, the incorporation of offshore companies, registration of ships and the formation of Panama trusts and foundations. There, are no taxes imposed on offshore companies that only engage in business outside of the jurisdiction. Offshore companies incorporated in Panama, and the owners of the companies, are exempt from any corporate taxes, withholding taxes, income tax, capital gains tax, local taxes, and estate or inheritance taxes, including gift taxes. Panama offers an additional benefit not available in many offshore tax havens L.e. being able to conduct business within the offshore jurisdiction.

8.38 There are extensive laws in Panama to protect corporate and individual financial privacy. Strict confidentiality laws and regulations apply to documentation of offshore corporations, trusts and foundations, with severe civil and criminal penalties for violations of confidentiality. The names of corporate shareholders are not required to be publicly registered. Panama also has very strict banking secrecy laws. Panamanian banks are prohibited from sharing any information about offshore bank accounts or account holders. The only exception is a specific Panamanian court order in conjunction with a criminal investigation.

8.39 Panama has few tax treaties with countries that have strong economic ties to it, further protecting the financial privacy of offshore banking clients who are citizens of other nations. Panama also offers the benefit of having no exchange controls. This means that for individual clients of Panama's offshore banking, as well as for offshore business entities incorporated in Panama, there are no limits or reporting requirements on money transfers into or out of the country.

8.40 The above discussion clearly shows that the Appellant had used the Panama based entities to route, it's unaccounted transactions. The story of earning remuneration from 'Salome', the impugned Panama based entity and it's accumulation for several years had been floated only with a view to explain unaccounted

funds routed through Lennox Overseas Inc. & Hereford Properties Ltd Inc."

12. Aggrieved with the above order assessee is in appeal before us raising following grounds in its appeal: -

1. a) *The CIT (A) erred in making addition of Rs.16,091/- (Equivalent to GBP 202.84) as unexplained credit on the alleged ground that nature and source of said credit had not been satisfactorily explained by the Appellant.*

b) *The CIT (A) erred in disregarding the explanation offered by the Appellant in respect of said credit and further narration of the entries shown in the bank statement which clearly indicates that the said credits are not in the nature of income chargeable to tax*

2. a) *The CIT (A) erred in making addition of Rs.4,00,20,000/- (Equivalent to USD 10,00,000) as unexplained credit on the alleged ground that the nature and source of said credit had not been satisfactorily explained by the Appellant disregarding the fact that the said credit entry is not in the nature of income.*

b) *The CIT (A) erred in disregarding the entire evidence which was filed by the Appellant to explain the source of the said credit amount of Rs.4,00,20,000/- appearing in the foreign account of the Appellant.*

c) *The CIT (A) erred in holding that the said foreign bank account at London is undisclosed and thus credit appearing in the said bank account is also undisclosed.*

3. *The observation made by the CIT(A) to the effect that the said foreign bank account was used basically to launder the unaccounted money of the Appellant for investing in real estate is based on presumptions, surmises and are contrary to the facts on record and further not supported by any independent evidence on record whatsoever and therefore is not tenable and is liable to be rejected.*

4. *The various damaging and arbitrary observations made by the CIT (A) in his order are purely based on non-application of mind and on presumption, surmises and conjectures which are not supported by any kind of evidence on record and are not tenable and liable to be rejected.*

5. *The various decisions relied upon by the CIT (A) on pages 24 to 44 of his order are distinguishable and not applicable to the case of the Appellant*

6. *The CIT (A) erred in dismissing grounds of appeal no. 6 & 7 raised before him.*

7. *The Appellant craves leave to amend or alter any grounds or add a new ground which may be necessary."*

13. At the time of hearing, Ld. AR of the assessee submitted that the present appeal is against order passed by the Assessing Officer u/s. 153A of the Act and he brought to our knowledge the relevant facts of this case, assessee is an individual and he was resident only from A.Y. 2004-05, however, before the above said assessment year assessee was not ordinary resident of India until previous Assessment Year.

14. Further, he brought to our notice Page No. 1 to 7 of the Paper Book which is return of income and financial statements filed by the assessee. He brought to our notice Page No. 3 of the Paper Book to highlight the remuneration received from Salome Holdings INC of ₹.781,020/- which the assessee has regularly declares in his return of income.

15. Further, he brought to our notice Page No. 7 of the Paper Book and submitted that in A.Y. 2005-06 assessee has declared remuneration from Salome Holdings INC which was declared in his return of income under the head "income from other sources" of ₹.7,88,220/-. Further, he also brought to our notice, computation statement and return of income for other Assessment Years i.e., A.Y. 2006-07, 2007-08 etc.,

16. Further, Ld. AR of the assessee submitted that being resident of India during the year, assessee has declared the income and offered to tax. Ld. AR of the assessee submitted that since the assessee has already declared the relevant income taxable in India, how can the Assessing Officer charged to tax u/s. 68 of the Act.

17. With regard to source of credit for the amount kept with M/s. Lennox Overseas Inc., from which assessee has received USD 10,00,000 and the contention of the Assessing Officer is that after becoming resident why assessee has failed to declare the same and offer to tax. In this regard he brought to our notice Page No. 2 of the Assessment Order wherein assessee has disclosed details of foreign bank account held by the assessee and Page No. 14 of the Ld.CIT(A) order in which Ld.CIT(A) has clearly observed that foreign bank account was opened during 1990's and

Ld. AR also brought to our notice the observation of the Ld.CIT(A) that assessee made a general averment that the account information was disclosed, when it was required to be disclosed as per law. Further, he observed that assessee had failed to categorically state as to when the disclosure of the said account had been made to the tax authorities.

18. Ld. AR objected to the observation of the Ld.CIT(A) that said foreign bank account is an undisclosed one and came to light only as a result of the search operation conducted by the department. In this regard Ld. AR submitted that it is factually incorrect statement recorded by the Ld.CIT(A). In this regard, he brought to our notice section 139 of the Act and he brought to our notice 4th proviso which was introduced in Finance Act, 2012 and it is applicable only from A.Y. 2012-13. With regard to disclosure of information about foreign bank account, he submitted that assessee has filed the return of income on 25.09.2012 in which assessee has disclosed the same in A.Y. 2012-13 except certain small interest income earned by the assessee. Further, he submitted that assessee has disclosed all the information before search party on 04.12.2012. Further, he submitted that the observations made by the Ld.CIT(A) at Para No.8.7 is factually incorrect statement.

19. Further, he brought to our notice Para No. 8.8 of the appellate order and objected to the observations made by the Ld.CIT(A) that assessee has not brought to the knowledge of the Assessing Officer with regard to assessee being retained as an advisor by Salome Holdings INC and assessee has not brought any material in support of the same. In this regard he brought to our notice Page No. 138 of the Paper Book wherein the Assessing Officer in the original Assessment Order passed u/s. 153(3) of the Act dated 03.12.2008 in which the Assessing Officer has disclosed the nature of profession income from the management consultancy activity and also it was disclosed that fee from company and the remuneration from Salome Holdings INC.

20. Further, he brought to our notice Page No. 28 of the Ld.CIT(A) order in which he has discussed the issue relating to panama based entities and observed that the material on record clearly shows that assessee has brought his unaccounted money parked abroad through a tax heaven registered in Panama namely M/s. Lennox Overseas Inc., and he concluded that the assessee has failed to prove the identity, creditworthiness of M/s. Lennox Overseas Inc., and also the genuineness of the transactions with M/s. Lennox Overseas Inc.,. Accordingly, he sustained the additions made by the Assessing Officer u/s. 68 of the Act.

In this regard Ld. AR submitted that when all the informations were already available on record and in the original Assessment Order also the Assessing Officer has observed that the source of income as declared by the assessee is from the consultancy charges from Salome Holdings INC. It is fact on record that M/s. Lennox Overseas Inc., is an associate entity of Salome Holdings INC, therefore when all the informations were already available on record how the Assessing Officer can make the addition u/s.68 of the Act. In this regard he relied on the finding in the following case law: -

- i. CIT v. Bhaichand N. Gandhi [1983] 141 ITR 67 (Bombay)*
- ii. Mehul V. Vyas v. ITO [2017] 164 ITD 296 (Mumbai)]*

21. Further, he submitted that remuneration from Salome Holdings INC was disclosed by the assessee till date. In this regard he brought to our notice Page No. 41 of the Paper Book wherein assessee has submitted the statement of accounts for the period 01.04.2003 to 31.03.2009 from M/s.Lennox Overseas Inc., which was submitted before the Assessing Officer and Ld.CIT(A).

22. He brought to our notice the relevant statement of account of M/s.Lennox Overseas Inc., as per which assessee had an opening balance

as on 01.04.2003 amount of USD 1415682.15 wherein remuneration earned by the assessee every year @USD 18000 was credited till F.Y.2005-06, in F.Y. 2006-07 it was USD 19500, in F.Y. 2007-08 onwards it was credited with USD 24000.

23. Further, he brought to our notice Page No. 56 of the Paper Book which is the confirmation received from M/s. Lennox Overseas Inc., with regard to the remittance of USD 10,00,000 to the bank account of the assessee with HSBC Private Bank (UK).

24. Further, he brought to our notice Page No. 57 of the Paper Book which is also confirmation received from M/s. Lennox Overseas Inc., for the remittance of USD 10,00,000/- on 12.02.2008 and GBP of 1,50,000 on 27.05.2008 along with the bank statements of M/s. Lennox Overseas Inc.,. this confirmation and bank statement also submitted before the Ld.CIT(A).

25. Further, assessee has filed the application for admission of additional evidences dated 17.06.2002 and he submitted that assessee has filed affidavit before ITAT and has filed the statement of affairs of the assessee for the foreign income and assets / liability for the period

F.Y.1998-99 to F.Y. 2008-09, financial statements of M/s. Lennox Overseas Inc., for the period F.Y. 1998-99 to F.Y. 2008-09, financial statements of Salome Holdings INC for the period F.Y. 1998-99 to F.Y.2008-09 and financial statements of Hereford Properties Limited for the period F.Y. 2007-08 to 2008-09. He submitted that the following evidences goes to the root of the matter and he prayed that the additional evidences may be admitted for adjudication.

26. Further, he brought to our notice Page No. 91 of the Paper Book – I, in which assessee has filed return of income for the A.Y.1995-96 onwards and assessee files the return of income regularly and he also brought to our notice the details of pending balances with M/s. Lennox Overseas Inc., which was earned by the assessee during the period when the assessee was non-resident of India.

27. With regard to other additions, of GBP 202.84 he submitted that assessee has made the small cash deposits which is kept on hand as petty cash.

28. On the other hand, Ld. DR submitted that the assessee has not filed any documents during search, assessment and during appellate

proceedings. He objected to the fact that assessee is filing additional evidences after 15 years of filing the return of income. He prayed that the above additional evidences should not be entertained and with regard to merits of the case he relied on the findings of the Assessing Officer and Ld.CIT(A).

29. Considered the rival submissions and material placed on record, we observe from the record that assessee is resident during this assessment year. However, assessee was non-resident until A.Y. 2001-02 and was resident but not ordinary resident till A.Y. 2003-04. During the current Assessment Year, the Assessing Officer observed that assessee has not offered for tax in the return of income an amount of GBP 202.84 deposited in the bank account and also credit of USD 10,00,000 received from M/s.Lennox Overseas Inc., and accordingly, proceeded to make the addition u/s. 68 of the Act as undisclosed credit. However, the assessee makes the claim that the receipt of USD 10,00,000 from M/s. Lennox Overseas Inc., is nothing but the credit balance outstanding in M/s.Lennox Overseas Inc., which was earned by the assessee when the assessee was non-resident and assessee kept the earning with the M/s. Lennox Overseas Inc.,. In this regard assessee has submitted before lower authorities, however, before us assessee has submitted additional

evidences which includes statement of affairs of foreign income and assets / liability for the period F.Y. 1998-99 to F.Y. 2008-09, financial statements of M/s. Lennox Overseas Inc., for the period F.Y. 1998-99 to F.Y. 2008-09, financial statements of Salome Holdings INC for the period F.Y. 1998-99 to F.Y.2008-09 and financial statements of Hereford Properties Limited for the period F.Y. 2007-08 to 2008-09. These additional evidences were submitted before us in support of the claim of the assessee that assessee has earned the income which is outstanding with M/s. Lennox Overseas Inc., and assessee has received USD 10,00,000 during the year and also GBP 1,50,000 during the assessment year 2009-10.

30. As per the financial statements submitted before us as additional evidences shows that assessee has an outstanding amount of USD 1435198 as on 31.03.1999 continues to held till A.Y. 2008-09 with the addition of remuneration income. The same was shown in the financial statements of M/s. Lennox Overseas Inc., and assessee has declared that the funds received by the assessee only out of the amounts outstanding in the books of the M/s. Lennox Overseas Inc., and whatever assessee has received from Salome Holdings INC and Hereford Properties Limited is on behalf of M/s. Lennox Overseas Inc.,. In the financial

statements of M/s. Lennox Overseas Inc., which is submitted before us is the financial statements from F.Y. 1998-99 to 2008-09 these financial statements were certified by JD Jhaveri & Associates, Chartered Accountants and this CA based in Mumbai. Since assessee has submitted financial statements and which is submitted as an year end balances by bringing on record the fact that assessee held enough funds with M/s.Lennox Overseas Inc., and we also observe that the financial statements of Salome Holdings INC and Hereford Properties Limited also certified by the same auditor. Since these documents proves that assessee has enough funds with the M/s. Lennox Overseas Inc., and in our considered view the informations submitted by the assessee shows only the year end outstanding balances in M/s. Lennox Overseas Inc., Since the certified auditor is based in Mumbai we direct the assessee to submit the consolidated ledger account of M/s. Lennox Overseas Inc., from F.Y. 1998-99 to F.Y. 2008-09 with the movement of balances during this period before the Assessing Officer. Since the additional evidences also submitted before us needs verification accordingly, we remit this issue also back to the file of the Assessing Officer to verify the claim made by the assessee along with consolidated ledger accounts of M/s. Lennox Overseas Inc., from the assessee and verify the same and delete the

addition if found proper. Accordingly, ground raised by the assessee is allowed for statistical purpose.

31. With regard to addition of petty foreign currency in hand this being a small petty cash deposits it does not need any proof of earning. This being a petty cash held by the assessee, we direct the Assessing Officer to delete the same. Accordingly, Ground No. 1 raised by the assessee is allowed.

32. In the result, appeal filed by the assessee is allowed for statistical purpose.

ITA NOs. 1995, 5624 & 5625/MUM/2019
(A.Ys: 2009-10, 2011-12 & 2013-14)

33. Assessee has raised following grounds in its appeal: -

AY 2009-10

1. *The CIT (A) erred in making addition of Rs.1,08,96,000/- (Equivalent to GBP 1,50,000/-) as unexplained credit on the alleged ground that nature and source of said credit had not been satisfactorily explained by the Appellant disregarding the facts that the said credit entry is not in the nature of income.*

2. *The CIT (A) erred in making addition of Rs.25,63,871/- (Equivalent to GBP 35,295.58) as unexplained credit on the alleged ground that the nature and source of said credit had not been satisfactorily explained by the Appellant disregarding the facts that the said credit entry is not in the nature of income.*

3. *The CIT (A) erred in disregarding the entire evidence which was filed by the Appellant to explain the source of the aforesaid credits during the year under consideration of Rs 108,96,000/- (GBP 1,50,000/-) and Rs. 25,63,871/- (GBP 35,295.58) appearing in the foreign account of the Appellant.*

4. *The CIT (A) erred in making addition of Rs.25,63,871/- received by the Appellant towards proceeds of Life Insurance Policy, which represents receipts of capital and not income liable to tax.*

5. *The CIT (A) erred in holding that the said foreign bank account at London is undisclosed and thus credit appearing in the said bank account is also undisclosed.*

6. *The observation made by the CIT (A) to the effect that the said foreign bank account was used basically to launder the unaccounted money of the Appellant for investing in real estate is based on presumptions, surmises and are contrary to the facts on record and further not supported by any independent evidence on record whatsoever and therefore is not tenable and is liable to be rejected.*

7. *The various damaging and arbitrary observations made by the CIT (A) in his order are purely based on non-application of mind and on presumption, surmises and conjectures which are not supported by any kind of evidence on record and are not tenable and liable to be rejected.*

8. *The various decisions relied upon by the CIT (A) on pages 27 to 45 of his order are distinguishable and not applicable to the case of the Appellant*

9. *The CIT (A) erred in dismissing grounds of appeal no. 8 & 9 raised before him.*

10. *The Appellant craves leave to amend or alter any grounds or add a new ground which may be necessary.*

AY 2011-12

1. a) *The CIT (A) erred in making addition of Rs.27,095/- (Equivalent to GBP 379.17) as unexplained credit on the alleged ground that nature and source of said credit had not been satisfactorily explained by the Appellant*

b) *The CIT (A) erred in disregarding the explanation offered by the Appellant in respect of said credit and further narration of the entries*

shown in the bank statement which clearly indicates that the said credits are not in the nature of income chargeable to tax.

2. *The CIT (A) erred in holding that the said foreign bank account at London is undisclosed and thus credit appearing in the said bank account is also undisclosed.*

3. *The observation made by the CIT(A) to the effect that the said foreign bank account was used basically to launder the unaccounted money of the Appellant for investing in real estate is based on presumptions, surmises and are contrary to the facts on record and further not supported by any independent evidence on record whatsoever and therefore is not tenable and is liable to be rejected.*

4. *The various damaging and arbitrary observations made by the CIT (A) in his order are purely based on non-application of mind and on presumption, surmises and conjectures which are not supported by any kind of evidence on record and are not tenable and liable to be rejected.*

5. *The various decisions relied upon by the CIT (A) on pages 21 to 42 of his order are distinguishable and not applicable to the case of the Appellant*

6. *The CIT(A) erred in dismissing grounds of appeal no.4 raised before him.*

7. *The appellant craves leave to amend or alter any grounds or add a new ground which may be necessary.*

AY 2013-14

1. a) *The CIT (A) erred in making addition of Rs.2,578/- (Equivalent to GBP 31.23) as unexplained credit on the alleged ground that nature and source of said credit had not been satisfactorily explained by the Appellant*

b) *The CIT (A) erred in disregarding the explanation offered by the Appellant in respect of said credit and further narration of the entries shown in the bank statement which clearly indicates that the said credits are not in the nature of income chargeable to tax.*

2. *The CIT (A) erred in holding that the said foreign bank account at London is undisclosed and thus credit appearing in the said bank account is also undisclosed.*

3. *The observation made by the CIT(A) to the effect that the said foreign bank account was used basically to launder the unaccounted money of the Appellant for investing in real estate is based on presumptions, surmises and are contrary to the facts on record and further not supported*

by any independent evidence on record whatsoever and therefore is not tenable and is liable to be rejected.

4. *The various damaging and arbitrary observations made by the CIT (A) in his order are purely based on non-application of mind and on presumption, surmises and conjectures which are not supported by any kind of evidence on record and are not tenable and liable to be rejected.*

5. *The various decisions relied upon by the CIT (A) on pages 21 to 42 of his order are distinguishable and not applicable to the case of the Appellant*

6. *The CIT(A) erred in dismissing grounds of appeal no.4 raised before him.*

7. *The appellant craves leave to amend or alter any grounds or add a new ground which may be necessary.*

34. Ld. AR of the assessee submitted that with regard to other appeals for the A.Y. 2009-10, 2011-12 and 2013-14 he submitted that the issues are similar except Ground No. 2 raised in A.Y. 2009-10.

35. With regard to Ground No. 2 raised in A.Y. 2009-10, Ld. AR brought to our notice Page No. 3 of the Assessment Order wherein one of the credit noticed by the Assessing Officer for an amount of GBP 35295.58 which is equivalent to ₹.25,63,871/- and Ld. AR submitted that the assessee has received the above said amount from HSBC Life (UK) Ltd., toward paid up value of Life Insurance Policy.

36. Further, he brought to our notice Page No. 15 of the Ld.CIT(A) order and he brought to our notice observation of the Ld.CIT(A) about the above transactions and Ld.CIT(A) observed that HSBC Life (UK) Ltd., in their

letter head in which they stated that policy of Mr. C.L. Doshi was surrendered on 23.02.2009 for an amount of GBP 35298.58 and was paid to the account No. 61007629. In this regard Ld.CIT(A) observed that assessee had not produced any document relating to the terms and condition of the policy, if any. There is nothing on record to show that the said policy was purchased through accounted sources. Accordingly, Ld.CIT(A) sustained and agreed with the findings of the Assessing Officer that the nature and source of the credit are unexplained and hence falls under the ambit of section 68 of the Act.

37. By bringing to our notice observations of Ld.CIT(A) and Assessing Officer, he wondered how the addition can be made u/s. 68 of the Act when all the informations were already placed before authorities. However, he brought to our notice Page No. 40 of the Paper Book which is the submissions made by the assessee before the Ld.CIT(A) in which the transaction was explained in detail and further, he brought to our notice Page No. 47 of the Paper Book which is the confirmation of the policy received from HSBC Life (UK) Ltd., which is placed on record in which it clearly explains facts relating to details of policy and surrendered value on 23.02.2009.

38. Further, he brought to our notice Page No. 50 of the Paper Book which is bank statement and in the bank statement it clearly shows that assessee has received the credit from HSBC Life (UK) Ltd., which is nothing but the life insurance policy taken by the assessee and he submitted that all the informations were already brought on record by the assessee and prayed that additions sustained by the Ld.CIT(A) may be deleted.

39. On the other hand, Ld. DR submitted that assessee has made the insurance investments and not filed any details or documents and established that it is an insurance policy before any authority. Accordingly, he relied on the orders of the lower authorities.

40. Considered the rival submissions and material placed on record, we observe from the record that assessee has received insurance maturity amount of GBP 35295.58 and assessee has submitted a confirmation from HSBC Life (UK) Ltd.,, and relevant bank statement along with the confirmation of insurance policy from HSBC Life (UK) Ltd., goes to prove that the credit received by the assessee in his bank account is nothing but insurance surrender value. Since the bank itself has submitted the confirmation of surrender value from insurance company. Therefore, it

goes to prove that what assessee has received is only an insurance surrender value. Therefore, we do not see any reason to hold otherwise. Further, this information relates to A.Y. 2009-10, we do not see any reason to hold it otherwise. Accordingly, Ground No. 2 raised by the assessee is Accordingly, allowed.

41. Coming to the other grounds raised by the assessee in appeals relating to A.Ys. 2009-10, 2011-12 & 2013-14, since facts in these cases are mutatis mutandis, therefore the decision taken in A.Y. 2008-09 is applicable to these Assessment Years also. Accordingly, these grounds are allowed for statistical purpose.

42. In the result, appeals filed by the assessee for the A.Y. 2008-09, 2009-10, 2011-12 & 2013-14 are allowed for statistical purpose.

Order pronounced in the open court on 21st July, 2023.

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER
Mumbai / Dated 21.07.2023
Giridhar, Sr.PS

Sd/-
(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum