

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT (SMC) BENCH
BEFORE SHRI DR. A. L. SAINI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.380/SRT/2023

Assessment Year: (2008-09)

(Virtual Hearing)

Ahindrakumar P. Nandi, B-303, Reva Darshan, Maktampur Near Police Station, Bharuch, Bharuch – 395002.	Vs.	The ITO, Ward-2(1)(1), Vadodara
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ABBPN0242K		
(Assessee)		(Respondent)

Assessee by	Shri Niraj A. Surti, CA
Respondent by	Shri Vinod Kumar, Sr. DR
Date of Hearing	22/08/2023
Date of Pronouncement	04/09/2023

आदेश / O R D E R

PER DR. A. L. SAINI, AM:

Captioned appeal filed by assessee, pertaining to Assessment Year (AY) 2008-09, is directed against the order passed by the Learned Commissioner of Income Tax (Appeals), [in short “the Id. CIT(A)”], National Faceless Appeal Centre (in short ‘the NFAC’), Delhi, dated 29.03.2023, which in turn arises out of an assessment order passed by Assessing Officer u/s 144 r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), dated 30.12.2015.

2. The grounds of appeal raised by the assessee are as follows:

“1. The appellate order passed by the Ld. AO is bad in law and not based on facts but based on presumptions and hence, needs to be quashed.

2. In the facts and circumstances of the case, Ld. CIT(Appeals), NFAC has erred in law and in facts in making an addition of Rs.2,48,603/- u/s 69 as unexplained investment which as such is fully explained since the same

has been made from past savings as well as tax-free RBI Relief bonds interest income and hence, it needs to be deleted.

3. In the facts and circumstances of the case, Ld. CIT(Appeals), NFAC has erred in law and in facts in levying penal interest u/s 234A, 234B and 234C of the Act and that it needs to be deleted.

4. The assessee craves leave to add, alter, amend, delete and /or modify any or all grounds of this appeal.”

3. Succinct facts *qua* the issue are that during the assessment proceedings, the assessing officer observed that assessee has made following investment during FY 2007-08, relevant to assessment year (AY) 2008-09:

Sr. No.	Details of Investment	Amount of Investment	Date of Investment
1.	Birla Sum Life Mutual Fund	7,00,000/-	16.11.2007
2.	DSP Merrill Lynch Mutual Fund	7,00,000/-	15.11.2007
3.	HDFC Mutual Fund	7,00,000/-	15.11.2007
4.	HDFC Tax Saver	3500/-	10.04.2007
5.	HDFC Tax Saver	3500/-	10.05.2007
6.	HDFC Tax Saver	3500/-	11.06.2007
7.	HDFC Tax Saver	3500/-	10.07.2007
8.	HDFC Tax Saver	3500/-	10.08.2007
9.	HDFC Tax Saver	3500/-	10.09.2007
10.	HDFC Tax Saver	3500/-	10.10.2007
11.	HDFC Tax Saver	3500/-	12.11.2007
12.	HDFC Tax Saver	3500/-	10.12.2007
13.	Franklin Templeton Investment	2,67,103/-	13.02.2008
	Total	23,98,603/-	

The assessee was asked to explained the source of above investments therefore, assessing officer issued a show cause notice to the assessee stating that as to why the above investments of Rs.23,98,603/- should not be treated as unexplained investment u/s 69 of the Income Tax Act. The assessee did not reply. The assessing officer issued further notices to the assessee, however, the assessee did not reply, therefore assessing officer framed the assessment order u/s 144 read with section 147 of the Act, by making addition of Rs.23,98,603/-.

4. Aggrieved by the order of Assessing Officer, the assessee carried the matter in appeal before the Id. CIT(A), who has partly deleted the addition made by the Assessing Officer. Before, Id CIT(A) the assessee had provided proof/evidence for amount of Rs.21,50,000, therefore, Id CIT(A) deleted the addition to the extent of 21,50,000/- and sustained addition for balance amount of Rs.2,48,603/- (Rs.23,98,603-Rs.21,50,000). Aggrieved by the order of Id. CIT(A), the assessee is in further appeal before this Tribunal.

5. I have heard both the parties and carefully gone through the submissions put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the facts of the case including the findings of the Id. CIT(A) and other material brought on record. Learned Counsel for the assessee argued that assessee is a senior citizen of 82 years old, and who got retired from ONGC Ltd., Ankleshwar in Month of November 2001. The assessee has invested his retired benefit amount in mutual funds. The balance addition of Rs.2,48,603/- (Rs.23,98,603 - Rs.21,50,000) sustained by Id CIT(A) is the exempted interest received by assessee, which has been disclosed by assessee in the return of income, therefore, the said addition may be deleted. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which we have already noted in our earlier para and is not being repeated for the sake of brevity. The Id Counsel further stated that copies of receipt of gratuity amount from ONGC Ltd as well as RBI Bond Ledger Account for investment of 8% Tax Free bonds have been submitted as additional evidences before the Hon'ble CIT (Appeals), NFAC, Delhi, however, Id CIT(A) has not considered the same.

6. I have considered the submissions of both the parties. I note that assessee has explained the source of investment with help of the bank statement, (vide paper book page no. 26), wherein the assessee has explained the source of the investment made by him and exempted interest received to the tune of Rs. 2,48,603/-. The assessee need not prove the source of the source, however in this case, the assessee has proved the source of the source also about the disputed amount of Rs.2,48,603/-. Therefore, considering these facts, I delete the addition of Rs. 2,48,603/-.

7. In the result, the appeal of the assessee is allowed.

Order is pronounced on 04/09/2023 in the open court.

Sd/-
(Dr. A.L. SAINI)
ACCOUNTANT MEMBER

सुरत /Surat

दिनांक/ Date: 04/09/2023

SAMANTA

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, Surat
6. Guard File

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By Order

Assistant Registrar/Sr. PS/PS
ITAT, Surat