

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No.7217 & 4744/Del/2018
Assessment Year: 2006-07 & 2007-08

Pradip Burman 4 th Floor, Punjabi Bhawan, 10 Rouse Avenue, Delhi- 110002 PAN No.AAAPB7429C (APPELLANT)	Vs	ACIT Circle – 70 (1) New Delhi (RESPONDENT)
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Appellant by	Sh. M. P. Rastogi, Advocate
Respondent by	Sh. Vivek Vardhan, Sr DR

Date of hearing:	25/09/2023
Date of Pronouncement:	04/10/2023

ORDER

PER N. K. BILLAIYA, AM:

ITA No.7217/Del/2018 and 4244/Del/2018 are two separate appeals by the assessee preferred against two separate orders of the CIT(A)-36 , New Delhi and CIT(A)-28, New Delhi dated 26.02.2018 and 27.04.2018 pertaining to A.Y. 2006-07 and 2007-08.

2. Since the under lying facts in the captioned appeals are identical for both the years, therefore, they were heard together

and are disposed of by this common order for the sake of convenience and brevity.

3. The quarrel revolves around the alleged deposit in the HSBC Bank account, Zurich though the quantum may differ in both the years.

4. Representatives of both the sides were heard together at length. Case records carefully perused and the relevant documentary evidences brought on record duly considered in the light of rule 18 (6) of the ITAT Rules.

5. Facts of the case are that the assessee was a non resident in F.Y. 1999-2000 and 2001. When the assessee was admittedly a non resident he opened bank account with HSBC Bank. In the year 2001 the assessee returned to India and disassociated himself from such bank accounts with HSBC, Zurich.

6. Information was received by CBDT about the foreign account and income of the assessee for the period relevant to A.Y. 2006-07 and 2007-08 when the assessee came to know about such information then on 03.10.2011 he filed a letter with ADIT, Investigation Unit-3, New Delhi stating that he has learnt about his name appearing in list of stolen data of HSBC bank account holder and agreed to deposit the income tax alongwith interest under protest on the balance purportedly mentioned in the list. It was clearly stated that the deposit of tax should not be taken

under any circumstances as admission of guilt on his part or an attempt to evade / cancel any tax liability willfully or otherwise and will not be subjected to further enquiry by the Investigation Wing of the department.

7. On 07.10.2011 the assessee again filed a letter with the aforementioned authority and reiterated what has been stated in the letter dated 03.10.2011.

8. On 14.10.2011 once again the assessee wrote a letter to the same authority stating that to the best office memory the amounts lying in the said bank account of HSBC is around US \$ 40,000 in F.Y. 2005-06 relating to A.Y. 2006-07 and US \$ 32.12 lacs in F.Y. 2006-07 related A.Y. 2007-08 and pointed out that he has deposited the tax for the respective assessment years. The assessment for the respective assessment years was completed by the AO vide order dated January 2014 by making addition of the amount disclosed by the assessee in the respective assessment years i.e. A.Y. 2006-07 and 2007-08 and penalty proceedings u/s. 271 (1)(c) of the Act were separately initiated.

9. Since the assessee has offered the income under protest the additions were challenged before the CIT(A) but without any success.

10. Before us the Counsel for the assessee reiterated what has been stated before the lower authorities. It is the say of the

Counsel that since the information was not received from the bank but was the outcome of data leak which was not authenticated by any authority neither by Swiss Bank nor by French Authorities and also not by the CBDT. It is the say of the Counsel that just to buy peace of mind the assessee has offered the income much before receiving notice u/s. 148 of the Act and prayed for the deletion of the addition.

11. The DR strongly supported the findings of the AO.

12. We have given a thoughtful consideration to the orders of the authorities below. It is the true that some information was received by CBDT about the foreign account in HSBC Bank. It is equally true that the said information was the outcome of stolen data and not received from any Government.

13. Since the assessee was a non resident till A.Y. 2000-01 and had bank accounts with HSBC Bank under a mistaken belief offered the income for taxation in the impugned assessment years, in respect of deposits in the said Bank account.

14. Be that as it may since the deposit in the said bank account cannot be denied, therefore, there is no other way but to tax the same as income of the assessee in the impugned assessment years and rightly done so by the AO and rightly confirmed by the CIT(A). We, therefore, do not find any merit in the captioned appeals by the assessee and the same are dismissed.

Order pronounced in the open court on 04.10.2023.

Sd/-
[ASTHA CHANDRA]
JUDICIAL MEMBER

Dated: .10.2023

Neha

Copy forwarded to:

1. Appellant
2. Respondent
3. CITi
4. CIT(A)
5. DR

Sd/-
[N.K. BILLAIYA]
ACCOUNTANT MEMBER

Asst. Registrar
ITAT, New Delhi