

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', DELHI**

Before Dr. B. R. R. Kumar, Accountant Member

ITA No. 2435/DEL/2023: Asstt. Year: 2011-12

Satish Yadav, C/o CA M R Sahu, House No. 651, 1 st Floor, Sec-10A, NR. G D Goenka Public School, Gurgaon 122001, Haryana (APPELLANT)	Vs	ITO, Ward 3, Rewari, Haryana 123110 (RESPONDENT)
PAN No. AASPY 1713 E		

**Assessee by : Shri M.R Sahu, CA
Revenue by : Shri Atiq Ahmed, Sr. DR**

Date of Hearing: 13.11.2023	Date of Pronouncement: 16.11.2023
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ORDER

Per Dr. B. R. R. Kumar, AM:-

The present appeal has been filed by the assessee against the order of Id. NFAC/CIT(A), Delhi dated 30.06.2023.

2. The issue argued before us pertains to reopening of the assessment and issue of notice u/s. 143(3). We have gone through the page no. 3 of the paper book wherein the approval of the Ld. PCIT has been taken by the ITO. The said approval is scanned as under:-

Form for recording the reason for initiating proceeding under section 147 of the Income Tax Act, 1961 for obtaining the approval of the Pr. Commissioner of Income Tax.

Name and Address of the Assessee	:	SATISH YADAV 591, CHAUDHARY WARA, REWARI
2. PAN	:	AASPY1713E
3. Status	:	Individual
4. District/ Circle/ Range	:	Ward-3, Rewari
5. Assessment Year in respect of which it is proposed	:	2011-12
6. The quantum of income, which has escaped assessment.	:	Rs. 36,37,285/-
7. Whether the provision of sec-147(a) or 147(b) are applicable or both the section are applicable.	:	U/s 147 of the Income Tax Act.
8. Whether the assessment is proposed to be made for the first time. If the reply is in affirmative please state. Whether any voluntary return had already been filed and If so, the date of filling the said return.	:	Yes No ✓
9. If the answer to item 8 is in the negative, please state The Income originally assessed. Whether it is a case of under Asstt. At too low rate, Asstt. which has been made the subject of excessive Relief or allowing of excessive loss or depreciation.	:	----- -----
10. Whether the provision of Section 150(1) are applicable. If the reply is in the affirmative, the relevant facts may be stated against item No.11 and it may also be brought out that the provisions of section 150(2) would not stand on the way of initiating proceedings u/s 147.	:	-----
11. Reasons in belief that income has escaped assessment.	:	As per Annexure I

30/3/18

Anuj Kumar
(Anuj Kumar)
Income Tax Officer,
Ward -3, Rewari.

Dated: 26.03.2018

12. Whether the Pr. Commissioner of Income Tax is satisfied on the reasons recorded by the ITO that it is a fit case for the issue of notice u/s 148

Yes, I am satisfied that it is a fit case for issue of notice u/s 148.

Certified to be true copy

Rajesh Meena
22/8/23 Dated: 29/03/2018
Rajesh Meena/राजेश मीना
Income Tax Officer/आयकर अधिकारी
Ward-2 Rewari/वेवारी

3. From the above we find that the Revenue Authorities held that the assessee has not filed return of income and hence the same has not been originally assessed. The assessee could produce the return filed on 30.03.2013 for the assessment year 2011-12 for the assessment year in question. The copy of the return of the computation of total income is as under:-

AY 20

Assessee's name: **SATISH YADAV**

AY: **2011-12**

A1 SUFFIX NAME: **SATISH** A2 MIDDLE NAME: **M**

A3 LAST NAME: **YADAV** A4 PERMANENT ACCOUNT NUMBER: **17113**

A5 SEX: **M** A6 DATE OF BIRTH: **02/11/1971** A7 INCOME-TAX WARD/CIRCLE: **WARD 56(01)**

A8 FLAT/DOOR BUILDING: **NEWARI** A9 ROAD/STREET: **NEWARI**

A10 AREA LOCALITY: **NEWARI** A11 TOWN/CITY/DISTRICT: **NEWARI**

A12 VILLAGE/LOCALITY: **NEWARI** A13 PINCODE: **23401**

COMPUTATION OF INCOME AND TAX RETURN Whole Rupee(s) only

Description	Code	Amount
Gross Total Income	B1	5,17,127
Deductions under Chapter VI-A	B2	1,00,000
Total Income	B3	4,17,127
Current Loss Carry Forward	B4	0
Net Tax Payable	B5	2,64,84
Interest Payable	B6	15,544
Total Tax and Interest Payable	B7	3,20,29
Total Advance Tax Paid	B8	0
Total Self Assessment Tax Paid	B9	3,20,50
Total TDS Deducted	B10	0
Total TDS Deducted	B11	0
Total Repaid Taxes (B8+B9+B10+B11)	B12	3,20,50
Refund Payable (B7-B12, if B7 > B12)	B13	0
Refund (B12-B7, if B12 > B7)	B14	2

Handwritten notes: *1/2* near B12, *2,30* and *3,113* at the bottom.

Name of Assessee SATISH YADAV
 Father's Name SHRI ROSHAN LAL YADAV
 Address 591 CHOUDHARY WARA REWARI REWARI REWARI REWARI HARYANA
 123401
 Address (Residential) 591 CHOUDHARY WARA REWARI REWARI REWARI REWARI HARYANA
 123401
 Status Individual Assessment Year 2011-2012
 Ward WARD 56 (01) Year Ended 31.3.2011
 PAN AASPY1713E Date of Birth 02/11/1971
 Residential Status Resident Sex Male
 Nature of Business Profession
 Stock Valuation Method Cost Price
 A.O. Code ---
 Filing Status Original

Computation of Total Income

Income from House Property (Chapter IV C) 122202

REWARI(HARYANA)

Annual Lettable Value 300000

Rent Receivable 0

Higher of above

300000

Annual Rental Value u/s 23

300000

Less

Deduction u/s 24(b)

90000

Interest

87798

177798

122202

Income from Business or Profession (Chapter IV D)

377890

Income u/s 44AD

377890

Profit as per Profit and Loss a/c

Income from Other Sources (Chapter IV F)

17035

Other Income

17035

517127

Gross Total Income

Less: Deductions (Chapter VI-A)

Sec 80C

68591

Sec 80D

56452

House Loan

13740

Tuition Fee

138783

Total

100000

100000

417127

417130

Total Income

Round off u/s 288 A

4. From these facts it can be unequivocally held that the reasons recorded by the ITO and as approved by the Ld. PCIT are on wrong facts and hence quashed, the assessment is treated as *void ab initio*.

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

Order pronounced in the open court on 16/11/2023.

**Sd/
(DR.B.R.R. KUMAR)
ACCOUNTANT MEMBER**

Delhi; Dated 16/11/2023

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Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A),
4. CIT
5. DR, ITAT,
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Delhi