

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH “D” NEW DELHI**

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER**

**I.T.A No.336/Del/2023**

**निर्धारणवर्ष/Assessment Year: 2016-17**

<b>Anurag Gupta Lower Bazar Modi Nagar, Ghaziabad, Uttar Pradesh.</b>	<b>बनाम Vs.</b>	<b>DCIT(Int. Tax) Noida.</b>
<b>PAN No. AIMPG4585A</b>		
<b>अपीलार्थी Appellant</b>		<b>प्रत्यर्थी/Respondent</b>

<b>Assessee by</b>	<b>Dr. Rakesh Gupta, Adv. &amp; Shri Somil Aggarwal, Adv.</b>
<b>Revenue by</b>	<b>Shri Abhishek Sharma, CIT (DR)</b>

<b>सुनवाईकीतारीख/ Date of hearing:</b>	<b>05.09.2023</b>
<b>उद्घोषणाकीतारीख/Pronouncement on</b>	<b>04.12.2023</b>

**आदेश /O R D E R**

**PER C.N. PRASAD, J.M.**

This appeal is filed by the assessee against the final assessment order of the Assessing Officer (for short “AO”) passed u/s 147 r.w.s. 144 pursuant to the directions of the DRP u/s 144C(5) of the Act. The assessee raised the following grounds:

*1. That having regard to the facts and circumstances of the case, assumption of jurisdiction in initiating the proceedings u/s 147 and passing the impugned order u/s*

147/144 and that too without complying with mandatory conditions u/s 147 to 151 as envisaged under the Income Tax Act, 1961, is bad in law and against the facts and circumstances of the case.

2. That in any case and in any view of the matter, assumption of jurisdiction u/s 147 and passing the impugned order u/s 147/144, is illegal, bad in law and against the facts and circumstances of the case and the same is not sustainable on various legal and factual grounds.

3. That having regard to the facts and circumstances of the case, reassessment order passed by Ld. DDIT/ADIT is illegal, bad in law and not sustainable in law also as the same was passed without issuing/serving the statutory notice u/s 148 in accordance with law.

4. That having regard to the facts and circumstances of the case, Ld. DDIT/ADIT in making an aggregate addition of Rs.51,14,701/- (i.e. Rs.9,97,951/- + Rs.41,16,750/-) by recording incorrect facts and finding and without observing the principles of natural justice and without appreciating/considering the below mentioned facts and circumstances:

- That the assessee is not required to file his income tax return as per section 115G of Income Tax Act, 1961.
- That the income earned by the assessee from the deposits with ICICI Bank and Punjab National Bank are "Investment Income" from the 'specified asset' as per section u/s 115C.

5. That in any case and in any view of the matter, action of Ld, DDIT/ADIT in confirming the action of Ld. DRP in making an aggregate addition of Rs.51,14,701/- (i.e. Rs.9,97,951/- + Rs.41,16,750/-), is bad in law and against the facts and circumstances of the case and the same is not sustainable on various legal and factual grounds.

6. That having regard to the facts and circumstances of the case, Ld. DDIT/ADIT has erred in law and on facts in

*passing the impugned order u/s 144 and that too without any basis and without appreciating the facts and circumstances of the case.*

7. *That having regard to the facts and circumstances of the case, reassessment order passed by Ld. DDIT/ADIT is without assuming valid jurisdiction u/s 144C in accordance with law and the same is not sustainable on various legal grounds.*

8. *That having regard to the facts and circumstances of the case, Ld. DDIT/ADIT has erred in law and on facts in not allowing the credit of prepaid taxed as claimed by the assessee.*

9. *That having regard to the facts and circumstances of the case, Ld. DDIT/ADIT has erred in law and on facts in charging interest u/s 234A and 234B of the Income Tax Act, 1961.*

10. *That the appellant craves the leave to add, modify, amend or delete any of the grounds of appeal at the time of hearing and all the above grounds are without prejudice to each other.”*

2. Ld. Counsel for the assessee argued only ground nos. 4 & 5 of grounds of appeal which is in respect of addition made of Rs.51,14,701/-. No arguments were advanced in respect of any other grounds and, therefore, we are confining our decision only to ground nos. 4 & 5 and hence other grounds are not adjudicated.

3. The Ld. Counsel for the assessee submits that the assessee has filed additional evidence in the form of chart showing correct interest received from Punjab National Bank. Ld. Counsel for the assessee submits that in the interest of justice, the additional

evidence may be admitted which are going to the root of the matter as there is a miscalculation in the interest by the AO.

4. Ld. DR has no serious objection in admitting the additional evidence and restoring the same to the file of the AO.

5. On hearing both parties additional evidences are admitted. We observe that as the additional evidences furnished goes to root of the issue to be decided we deem it proper to restore this issue to the file of the AO, we shall decide afresh in accordance with law after providing adequate opportunity of being heard.

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

Order pronounced in the open court on 04/12/2023

Sd/-  
(SHAMIM YAHYA)  
ACCOUNTANT MEMBER

Sd/-  
(C.N. PRASAD)  
JUDICIAL MEMBER

Dated: 04.12.2023

*\*Kavita Arora, Sr. P.S.*

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi