

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.121/Ind/2023
Assessment Year:2016-17

Smt. Kusumlata Garg, 8/2, New Palasia, Indore	<u>बनाम/</u> Vs.	DCIT/ACIT, 3(1), Indore
(Assessee / Appellant)		(Revenue / Respondent)
PAN: ACHPG 3210 H		
Assessee by	Shri S.S. Solanki, AR	
Revenue by	Shri Harshit Bari, Sr.DR	
Date of Hearing	31.10.2023	
Date of Pronouncement	15.12.2023	

आदेश / O R D E R

Per B.M. Biyani, A.M.:

Feeling aggrieved by appeal-order dated 10.03.2023 passed by learned Commissioner of Income-Tax (Appeals), N.F.A.C., Delhi ["Ld. CIT(A)"], which in turn arises out of assessment-order dated 27.12.2018 passed by learned DCIT/ACIT, 3(1), Indore ["Ld. AO"] u/s 143(3) of Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2016-17, the assessee has filed this appeal.

2. Heard the learned Representatives of both sides at length and case-records perused.

3. The sole grievance of assessee in present appeal is the ad hoc addition of Rs. 2,00,000/- made by the AO in respect of interest expenditure/income. The CIT(A) passed *ex-parte* order and dismissed first-appeal of assessee for non-prosecution. Normally in such cases, we would have remanded the matter back to the file of CIT(A) for consideration afresh. But the Ld. AR for assessee made a strong prayer that it is a simple case and can be decided on the basis of simple documents held on record; therefore it would be better that the assessee's case is decided by ITAT itself. This would save the time, energy and avoid multiplicity of proceedings. Ld. DR for revenue did not object to the prayer of Ld. AR; therefore the case is being decided on merit.

4. Ld. AR carried us to para no. 2 of assessment-order where the AO has noted certain discrepancies in interest expenditure/income actually paid/received by the assessee and claimed as deduction/offered as income in return of income. The said para is extracted below for an immediate reference:

"2. Assessee has offered income from house property at Rs. 38,65,248/- and income from other sources i.e. interest income from saving bank account at Rs. 22,421/-, interest on FDRs at Rs. 17,82,000/- and interest on loans and advances from other persons at Rs. 26,20,688/-. In fact assessee received interest on loans and advances at Rs. 35,63,983/- and paid interest to others at Rs. 22,47,717/- thus surplus of interest received over interest paid of Rs. 8,16,267/- has been offered in the computation of income. Assessee has filed the details of interest received and interest paid and their copies of accounts. Perusal of the details and copy of accounts shows many discrepancies like in the ledger of interest paid, assessee has shown payment of interest to Umapati Resort loan a/c at Rs. 1616.52, but in the account of Umapati Resort a/c this amount of interest has not been credited. Similarly in the ledger interest paid to Sheetal Garg has been shown to be paid at Rs. 2,47,381/- but in the copy of a/c of Sheetal Garg only amount of Rs. 2,46,429/- has been credited. Similarly perusal of the ledger of interest received shows that interest from Sitaram Srinarain Agrawal & Co. has been received at Rs. 9,40,233/- (194062 + 746171) but in the ledger account only

Rs. 8,29,079/- has been shown, thus interest receipt of Rs. 1,15,154/- has been shown less. Similarly figures of interest receipts shown in ledger and shown in copy of a/c of Abhishek Agrawal and Dinesh Soni are not matching. Therefore, in view of these discrepancies, an addition of Rs. 2,00,000/- is made out of claim of interest of Rs. 27,47,716/- and the same is added to the total income of the assessee..”

5. Thereafter, Ld. AR carried us to various documents/papers filed in paper book, which are primarily in the nature of Ledger A/cs and A/c Confirmations, and dislodged the aforesaid discrepancies noted by AO one by one as under:

S.No.	Discrepancy	Paper Book Page No.	Explanation by Ld. AR
1.	The assessee has shown interest payment of Rs. 1616.52 to Umapati Resort Loan A/c but in the Ledger A/c of Umapati Resort, this amount has not been credited.	8	Interest of Rs. 1616.52 is in fact on account of late payment of service tax, paid directly by Umapati Resort on behalf of assessee. Therefore, interest is debited to 'Interest A/c" and credited to Umapati Resort Loan A/c. It is not an interest paid as such to Umapati Resort, hence there is no question of crediting interest to Umapati's A/c. Interest for late payment of service-tax (indirect tax) is allowable as deduction and the assessee has rightly claimed the same.
2.	Interest paid to Sheetal Garg has been shown at Rs. 2,47,381/- but in the Ledger A/c of Sheetal Garg, only amount of Rs. 2,46,429/- has been credited.	--	Ld. AR admitted this discrepancy and accordingly agreed for sustenance of addition of Rs. 952/- being the difference of Rs. 2,47,381/- and Rs. 2,46,429/-.
3.	Interest received from Sitaram Srinarain Agrawal & Co. is Rs. 9,40,233/- (194062 + 746171) but the	7	The assessee has filed A/c confirmation of the same party to AO as well as in Paper-Book. Ld. AR drew us

	assessee has shown Rs. 8,29,079/- only. Therefore, interest-receipt has been shown less by Rs. 1,15,154/-.		to same and demonstrated that the AO has wrongly picked up the figures of Rs. 1,94,062/- + 746171/- = Rs. 9,40,233/-. The correct amount of interest is Rs. 8,29,079/- as is evident from A/c confirmation. Therefore, the assessee has rightly declared correct amount of interest income and there is no discrepancy.
4.& 5.	Interest shown in ledger A/c of assessee and interest shown in A/c Confirmation of Abhishek Agrawal and Dinesh Soni are not matching.	5, 6 & 2	The assessee has received interest of Rs. 1,20,000/- from Abhishek Agrawal and Rs. 40,000/- from Dinesh Soni, which are correctly declared in Interest-receipt A/c. Therefore, there is no discrepancy at all. The AO has made a vague and baseless remark about mismatching without giving any details.

6. This way, Ld. AR explained that the AO has wrongly made ad hoc addition of Rs. 2,00,000/- by alleging about certain discrepancies which are not there except a minor difference of Rs. 952/-, as noted at S.No. 2 in above table. Ld. AR agreed that the addition to the extent of Rs. 952/- must be upheld and the remaining addition should be deleted.

7. Ld. DR for revenue understood the explanation made by Ld. AR and did not raise any objection.

8. We have considered the above explanation made by Ld. AR in the presence of Ld. DR and found the same to be correct and corroborated as per the documents filed in Paper-Book. Ld. DR also did not have any objection against the explanation of Ld. AR. Therefore, after a careful

consideration, we agree that there is a discrepancy of Rs. 952/- only, all other discrepancies as alleged by AO are not existing. Hence, we uphold the addition to the extent of Rs. 952/- and delete the remaining addition. The AO is directed to modify assessment-order accordingly.

9. Resultantly, this appeal of the assessee is partly allowed.

Order pronounced in the open court on 15.12.2023.

sd/-
(VIJAY PAL RAO)
JUDICIAL MEMBER

sd/-
(B.M. BIYANI)
ACCOUNTANT MEMBER

Indore

दिनांक /Dated : 15.12.2023

CPU/Sr. PS

*Copies to: (1) The appellant
(2) The respondent
(3) CIT
(4) CIT(A)
(5) Departmental Representative
(6) Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Indore Bench, Indore*