

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

Before Sh. Saktijit Dey, Vice President

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

ITA No. 525/Del/2023 : Asstt. Years: 2013-14

ITA No. 526/Del/2023 : Asstt. Years: 2014-15

Sajan Ram Bhandary 59/2, Flat No. 303, New Rohtak Road, Karol Bagh, New Delhi-110005 (APPELLANT)	Vs	ACIT, Circle-1(1)(2), Intl. Taxation, New Delhi (RESPONDENT)
PAN No. APUPB1870N		

**Assessee by : Shri Gagan Kumar, Adv.
Shri Varun Gandhi, Adv.
Ms. Nishtha Kaura, Adv.
Revenue by : Sh. Vizay. B. Vasanta, CIT-DR**

Date of Hearing: 17.10.2023

Date of Pronouncement: 09.01.2024

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals have been filed by the assessee against the orders dated 29.12.2022 & 30.12.2022 passed by the AO u/s 147 r.w.s. 144C(13) of the Income Tax Act, 1961.

2. Since, the issue involved in both the appeals are similar, they were heard together and being adjudicated by a common order. In ITA No. 525/Del/2023, following grounds have been raised by the assessee:

"1. That the order under section-143(3) r/w section-144C (13) of the Income Tax Act, 1961 ("the Act") dated 29th December, 2022 ("the Impugned Order") passed by the Learned Assessing Officer ("the Ld. AO")/ Learned Dispute Resolution Panel-I ("Ld. DRP") is erroneous and bad in law.

2. That the Ld. AO/Ld. DRP grossly erred in law and on the facts and circumstances of the case in confirming an addition of Rs. 35,56, 180/- in the income of the Appellant.

3. That the Ld. AO/Ld. DRP grossly erred in law and on the facts and circumstances of the case in issuing directions under section 144C(5) of the Act without considering the evidence filed before them.

4. That the Ld. AO/Ld. DRP grossly erred in law and on the facts and circumstances of the case in deeming the accretion of Rs. 1,84,762/- on account of the premature surrender of a policy from Bajaj Allianz to be the Appellant's income under section 80CCC (2) of the Act.

5. That the Ld. AO/Ld. DRP grossly erred in law and on the facts and circumstances of the case in invoking section 69 of the Act to classify the Appellant's investments of Rs. 31,82,700/- as unexplained and deemed the said assets to be the Appellant's income.

6. That the Ld. AO/Ld. DRP grossly erred in law and on the facts and circumstances of the case in issuing direction for remand report.

7. That the Ld. AO/Ld. DRP grossly erred in law and on the facts and circumstances of the case in not providing relief according to the Central Board of Direct Tax Circular dated 11.04.1955, directing the assessing officer not to take advantage of the assessee's ignorance and/or mistake.

8. That the Ld. AO/Ld. DRP grossly erred in law and on the facts and circumstances of the case in sending the notice for representation before the Ld. AO on the wrong email address.

9. The Ld. AO grossly erred in law and on facts and circumstances of the case in levying interest under Section 234A and Section 234B of the Act.

10. That on facts and in law, the Ld. AO erred in initiating penalty proceedings under section 271(1)(c) of the Act."

3. Facts relevant for the adjudication of the case are that as per the information available with the Income Tax Department, the assessee has purchased two policies from Bajaj Alliance Pension Plan on 28.05.2008 and 28.01.2009 and paid a premium of Rs.10,00,000/- and Rs.12,00,000/-. The said

policies were surrendered prematurely on 22.02.2013 and 24.01.2014 for surrender value of Rs.11,84,762/- and Rs.14,41,322/- and accretion of Rs.1,84,764/- and Rs.2,41,322/- on both these policies. Based on this information, the assessee has been issued notice u/s 148 of the Income Tax Act, 1961.

4. In response to the notices issued u/s 148 of the Income Tax Act, 1961, the assessee filed ITR showing the following income:

- Income from other sources – Rs.5,66,061
- Interest on Bank savings – Rs.12,875
- Interest on Bank FDR (HSBC) – Rs.1,63,524
- Interest from Skylark Mansions Pvt. Ltd. – Rs.1,48,340
- LIC Maturity proceeds – Rs.2,41,322

5. To cut the long story short, we find that the AO brought the entire amount of premium paid to Bajaj Alliance to tax. The Assessing Officer also held that since the assessee has made investment in Skylark Mansions Pvt. Ltd. from which he earned interest of Rs.1,48,340/- and also earned interest on Bank savings of Rs.12,875/-, he (AO) estimated total investment at Rs.38,98,300/- deeming interest @ 8% on investment.

6. Aggrieved, the assessee sought directions from the Id. DRP.

7. The Id. DRP after hearing the assessee extensively and after considering the remand report of the AO affirmed the draft Assessment Order which culminated into final Assessment Order.

8. Aggrieved, the assessee filed appeal before us.

9. Heard the arguments of both the parties and perused the material available on record.

10. We have perused the copy of the bank account statement filed in the paper book at page no. 42 to 71, Bajaj Alliance Pension Fund account wherein the sources of investment as well as realization have been proved. We find that the Assessing Officer and the Id. DRP has disregarded the overwhelming evidences available on record and proceeded to make the addition on non-substantial grounds. Hence, the appeal of the assessee is hereby allowed.

11. In the result, the appeals of the assessee are allowed.
Order Pronounced in the Open Court on 09/01/2024.

Sd/-
(Saktijit Dey)
Vice President

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

Dated: 09/01/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR