

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI**

**BEFORE DR. BRR KUMAR, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 51/Del/2017
Asstt. Year: 2012-13

ACIT, Central Circle-25, New Delhi.	Vs.	Legal Heir of Sh. Surinder Kapur, No.- 11, the Greens, Rajokari, New Delhi-110 038 PAN AHHPK9839P
(Appellant)		(Respondent)

Department by :	Ms. Monika Dhama, CIT(DR)
Assessee by:	Ms. Nehal Sharma, CA
Date of Hearing:	13.02.2024
Date of pronouncement:	22.03.2024

ORDER

PER ASTHA CHANDRA, JM

The appeal filed by the Revenue is directed against the order dated 31.10.2016 of the Ld. Commissioner of Income Tax (Appeals)- 29, New Delhi (**"CIT(A)"**) pertaining to Assessment Year (**"AY"**) 2012-13.

2. The Revenue has raised the following grounds of appeal:

"1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the additions of interest earned, estimated to be @ 4% per annum as the assessee failed to provide any details in respect of foreign bank account and interest rates thereon.

2. That the order of the CIT(A) is perverse, erroneous and is not tenable on facts and in law.

3. *That the grounds of appeal are without prejudice to each other.*
4. *That the appellant craves leave to add, amend, alter or forgo any of the ground(s) of appeal before or at the time of the hearing of the appeal.”*

3. The assessee is an individual. The return for AY 2012-13 was filed on 28.07.2012 declaring income of Rs. 23,06,39,690/- which was subsequently revised on 31.03.2014 declaring income of Rs. 21,06,39,690/-. The Ld. Assessing Officer (**“AO”**) completed the assessment on 27.02.2015 u/s 143(3) of the Income Tax Act, 1961 (**the “Act”**) on revised income declared adding thereto Rs. 4,96,424/- on account of unexplained investment.

4. On appeal by the assessee, the Ld. CIT(A) deleted the impugned addition by observing and recording the following findings:

“15. Ground no.9 relates to the addition of Rs.4,96,424/- on account of interest on money, lying in such foreign bank, which is held as undisclosed bank account of appellant. The addition has been made by the AO considering that there must have been a component of interest earned on the said deposit and he has taken 4% interest, which is interest rate, generally given by the banks.

15.1 It has been observed that the addition has been made on the basis of presumption that the deposit found in the bank account is provided with the interest @4%. As per the document, based on which it is found that the appellant has made unexplained deposits in the said bank accounts of HSBC Bank at Geneva, Switzerland, has no mention about such interest credited in those bank accounts. There is no further evidence brought out by the AO or submission/any admission made by the appellant during assessment proceedings to substantiate that the appellant has actually earned that interest. Therefore, in the absence of any corroborative evidence or any further information received from any source with regard to the interest earned by appellant on such bank account, the addition made by the AO deserves to be deleted, as it is seen from the assessment order that the same is added on the basis of presumptions only. Accordingly, this addition is directed to be deleted. Here it is to be clarified that this finding only relates to the addition towards undisclosed interest income and the findings with respect to the deposits in the said bank account as mentioned in the appellate order of the AY 2006-07 in the case of appellant shall have no consequence on it.”

5. Aggrieved, the Revenue is in appeal before the Tribunal and all the grounds of appeal relate thereto.

6. We have heard the Ld. Representatives of the parties and perused the records. It has been brought to our notice that identical addition was made in AY 2010-11 which was deleted by the Ld. CIT(A). Against the order of the Ld. CIT(A), the Revenue came up in appeal before the Tribunal. Vide order in ITA No. 49/Del/2017 dated 02.03.2021, the Tribunal dismissed the appeal of the Revenue by observing as under:

“5. After considering the rival submissions, we do not find any merit in the Departmental Appeal. The Ld. D.R. relied upon the Order of the A.O. and contended that assessee maintained bank account with HSBC Bank at Geneva, Switzerland and assessee has offered additional income in A.Y. 2006-2007 which was added and the same was the basis for computing the interest in assessment year under appeal. On the other hand, Learned Counsel for the Assessee submitted that in A.Y. 2006-2007 addition was maintained by the Ld. CIT(A) against which no further appeal have been filed. Learned Counsel for the Assessee submitted that addition is made merely on presumption, therefore, it was rightly deleted by the Ld. CIT(A). In view of the above submissions, it is clear that there were no basis for the A.O. to make any addition of interest on such bank account maintained by the assessee with HSBC Bank at Geneva, Switzerland. The A.O. in the assessment order has specifically mentioned that the bank statement available with the Department contains the peak balance maintained in the bank account of assessee with HSBC Bank at Geneva, Switzerland from November, 2005 to February, 2007. The details of the same are also noted in para-10 of the assessment order. The A.O. further noted that as per the information available with the Department, the last known balance in HSBC Bank account of the assessee was for the month of February, 2007 at \$ 24,085.41. In the absence of any bank account statement of the said bank account and information of the status of its existence / closure, the balance as on March, 2007 was required to be worked-out as there must have been component of interest earned for the month of March, 2007 and thereafter. The A.O, therefore, presumed that assessee has earned interest @4% per annum and made the addition. These facts clearly show that A.O. was not having any information/material so as to prove that assessee maintained the same HSBC account for the assessment year under appeal. The A.O. in the absence of bank statement and further details presumed that assessee must have earned interest on the same foreign bank account in assessment year under appeal. It was, therefore, clearly support the findings of fact recorded by the Ld. CIT(A) that there were no evidence

available with the A.O. to compute the interest earned by the assessee in assessment year under appeal. In the absence of any evidence on record to the effect that assessee maintained any foreign bank account in assessment year under appeal or earned any interest thereon, the Ld. CIT(A) was justified in deleting the addition. We do not find any error in the Order of the Ld. CIT(A) in deleting the addition. The Departmental Appeal fails and is dismissed.”

7. The parties agreed that the facts continue to be the same in AY 2012-13 as well.

8. Respectfully following the decision of the Tribunal (supra), we endorse the finding of the Ld. CIT(A) which is in consonance with the order of the Tribunal in assessee's own case pertaining to AY 2010-11 (copy of which has been placed before us). Consequently, the appeal of the Revenue is rejected.

9. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 22nd March, 2024.

**sd/-
(DR. BRR KUMAR)
ACCOUNTANT MEMBER**

**sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER**

Dated: 22/03/2024

Pooja

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

<i>Date of dictation</i>	
<i>Date on which the typed draft is placed before the dictating Member</i>	
<i>Date on which the typed draft is placed before the Other Member</i>	
<i>Date on which the approved draft comes to the Sr. PS/PS</i>	
<i>Date on which the fair order is placed before the Dictating Member for pronouncement</i>	
<i>Date on which the fair order comes back to the Sr. PS/PS</i>	
<i>Date on which the final order is uploaded on the website of ITAT</i>	
<i>Date on which the file goes to the Bench Clerk</i>	
<i>Date on which the file goes to the Head Clerk</i>	
<i>The date on which the file goes to the Assistant Registrar for signature on the order</i>	
<i>Date of dispatch of the Order</i>	