

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

**BEFORE SHRI G.S. PANNU, VICE PRESIDENT  
AND  
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 2928/DEL/2022  
Assessment Year: 2017-18**

Akshendra Kumar Bhanu, C/o M/s Kartar Singh & Co., 86, Bank Street, Meerut Cantt. PAN- AIMPB5559K	<u>Vs</u>	Income-tax Officer, Ward-1(1)(1), Meerut.
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Assessee represented by</b>	Shri R.P. Narang, Adv.	
<b>Department represented by</b>	Shri Manu Chaurasia; & Shri Kanv Bali, Sr. DRs	
<b>Date of hearing</b>	01.12.2023	
<b>Date of pronouncement</b>	28.03.2024	

**ORDER**

**PER ANUBHAV SHARMA, JM:**

The assessee has come in appeal against the order dated 11.11.2022 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (hereinafter referred as “learned First Appellate Authority” or in short “FAA”) in Appeal no. CIT(A), Meerut/10129/2019-20, for the assessment year 2017-18, arising out of the intimation dated 27.03.2019 u/s 143(1) of the Income-tax Act, 1961 (hereinafter referred as the “Act”), passed by the Income Tax Officer, Ward-1(1)(1), Meerut (hereinafter referred in short as “Ld. AO”).

2. The appellant/ assessee claims that as a regular Income tax payer, besides some interest income on bank deposit the main source of income is 75% share in partnership firm M/s Alaknanda Associates. During the year under appeal a sum of Rs. 9,00,000/- was received as remuneration from this firm and same was taxable in the hands of appellant/ assessee. Besides this, a sum of Rs.15,16,046/- has also shown by the assessee, as exempt being already taxed in hands of firm hence not taxable in the hands of appellant/ assessee.

2.1 The case of assessee is that the firm M/s Alaknanda Associates is engaged in contract work for supply of men-power and sum supply work and being run in terms of written partnership deed dated 15.09.2007. Contract work for supply of to M/s United Sprits Co. Ltd. have been awarded to appellant/ assessee but the same being carried out by the firm as per provision of partnership deed. All the bills have been raised by the firm and payment thus have been made to the firm itself through regular banking channel hence accounted for in the accounts of firm regularly maintained and profit whatever has been shown in the hands of firm as per books of accounts duly audited u/s 44AB of the Income Tax Act. Since the contract agreement is between the appellant/ assessee and United Sprits Co. Ltd., the TDS u/s 194C on gross amount of payment have been deducted and uploaded on PANo. of appellant/ assessee hence claimed in the hands of appellant/assessee and profit have been taxed in the hands of firm during the year under appeal or in past consistently.

3. The assessing officer has framed the assessment u/s 143(1) of the Act, on an income of Rs. 76,89,770/- against the return income of Rs. 6,93,520/- adding Rs. 69,96,250/-.

3.1 As assessee went in appeal and the same was dismissed by Id. CIT(A), by following relevant observations in para 3.

*“3. Decision*

*3.1 Appeal has been filed against processing u/s 143(1). It was seen that income as per ITR was 153199, while as per 26AS it was 7149448 and the difference of Rs.6996249, was brought to tax in the hand of assessee*

*3.2 In statement of facts assessee claims that he was a partner of ms. Akananda Associates firm and the business was done by the firm with m/s united spirits, but the tax deduction was made in assessee's hands. The claims that full income was disclosed in the hands of the firm and he has only collected TDS which was deducted in his name.*

*3.3 Appellant has furnished some case laws to plead that income of firm cannot be taxed in the hands of partners*

*3.4 The appellant has not filed any details to show disclosure of income in the hands of firm, despite making loud claims. He has not shown why rectification of PAN was not done in the hands of deductor.”*

*On the facts and as per the law, income has to follow the TDS. The appellant can claim that he will only claim the TDS and not show income is against the basic tenet of law.*

4. The assessee is in appeal with following grounds:

*“1. In view of the facts, circumstances and supporting evidences besides a elaborate written arguments dated 23.05.2021 placed on record duly appearing on I. Tax Portal the ld. CIT (A), NFAC is erred in law and otherwise on facts completely ignoring it and passed a order in very slip-short even not mentioning in order the reason of his disagreement with written argument, the order so passed deserves to be quashed and addition So made by AO are not maintainable.*

*2. Without prejudice to above grounds of appeal the ld. CIT (A) was not justified to not to look into the facts the entire gross receipts as per Form no. 26AS cannot be taxed in the hands of appellant/assessee as income from other sources the addition confirm by the CIT(A) is most arbitrary and uncalled for.*

3. *The Appellant/ Assessee craves leave to take additional grounds of appeal before or at the time of hearing of the appeal and/or modify any of the above grounds.*

5. Heard and perused the record.

5.1 Learned AR has reasserted the facts and arguments as canvassed before learned CIT(A) and learned DR has supported the order of learned CIT(A).

6. Having considered the material before us and submissions, it comes up that learned CIT(A) has merely gone on the basis of the fact that income has to follow TDS. However, learned CIT(A) failed to appreciate that there cannot be double taxation of the income. It comes up that, learned CIT(A) mentions in para 3.4 that assessee has failed to show that the income was disclosed in the hands of the firm, however, what comes up is that before learned CIT(A) while filing the submissions, copy of which is made available at pages 18 to 53 of the PB, the appellant has also filed following documents as annexures:

- Copy of Acknowledgement receipt of return as Annexure- 1, at pg. No. 6
- Copy of computation of income as Annexure-2, at pgs. No. 7 to 9
- Copy of Form No. 26AS as Annexure - 3, at pgs. No. 10 & 11
- Copy of income & expenditure account of M/s Alaknanda Associates (Partnership Firm) forming part of tax audit report as Annexure - 4, at pg. No. 12-
- Copy of balance sheet of M/s Alaknanda Associates (Partnership Firm) forming part of tax audit report as Annexure - 5, at pgs. No. 13 & 14
- Copy of details of Income/Receipts of firm M/s Alaknanda Associates (Partnership Firm) as Annexure - 6, at pg. No. 15
- Copy of partnership deed dated 15.09.2007 of the firm M/s Alaknanda Associates (Partnership Firm) as Annexure - 7, at pgs. No. 16 to 20
- Copy of Invoice wise detail of bills and payments receipts of M/s Alaknanda Associates (Partnership Firm) as Annexure - 8, at pgs. No. 21 & 22
- Copy of detail Gross Receipts from menpowers supply account in ledger account of M/s Alaknanda Associates (Partnership Firm) as Annexure - 9, at pgs. No. 23 to 29

- Copy of Receipts from United Sprits Ltd. account in ledger account of M/s Alaknanda Associates (Partnership Firm) as Annexure - 10, at pgs. No. 30 to 34

6.1 Thus specific evidence was filed that gross receipts from M/s United Sprits Co. Ltd. have been accounted and taxed in the hands of the firm but same were not taken note of and on very general principle of taxing income on basis of TDS credit claim, the addition was sustained.

7. Thus, we consider it an appropriate case to restore the issue on merits to the files of learned CIT(A) to consider the submissions dated 23.5.2021 of the assessee along with evidences in the form of annexure and to pass a fresh order, on the basis of aforesaid observations of this Bench, that there cannot be double taxation of the same income.

8. The appeal is accordingly allowed for statistical purposes.

Order pronounced in open court on 28.03.2024.

**Sd/-**  
**(G.S. PANNU )**  
**VICE PRESIDENT**  
**\*MP\***

Copy forwarded to:

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

**Sd/-**  
**(ANUBHAV SHARMA)**  
**JUDICIAL MEMBER**

**ASSISTANT REGISTRAR**  
**ITAT, NEW DELHI**