

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI C. N. PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 587/Del/2017
(Assessment Year: 2011-12)**

Amit Mavi, 201, 202, Earth Court, Japyee Greens, Greater Noida (Appellant) PAN: AIUPM7276Q	Vs.	ACIT, Central Circle, Noida (Respondent)
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Assessee by :	Shri Sanat Kapoor, Adv
Revenue by:	Safarul Haqye Tanweer, CIT DR

Date of Hearing	09/01/2024
Date of pronouncement	04/04/2024

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.587/Del/2017 for AY 2011-12, arises out of the order of the Commissioner of Income Tax (Appeals)-IV, Kanpur [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. CIT(A)-IV/74/DCIT-CC/NOIDA/2013-14/169 dated 30.11.2016 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 30.03.2013 by the Assessing Officer, ACIT, Central Circle, Noida (hereinafter referred to as 'Id. AO').
2. The only effective issue to be decided in this appeal is as to whether the Id CIT(A) was justified in confirming the addition of Rs. 1 crore made by the Id AO based on the statement recorded u/s 132(4) of the Act without bringing on record any corroborative material to support that addition in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the material available on record. The assessee is an individual deriving income from salary, house property and other sources. A search and seizure operation was conducted in the case of the assessee, his family members and company M/s. Better Option Prop Mart Pvt. Ltd wherein, the assessee is a director on 25.03.2011 u/s 132 of the Act. During the course of search, the assessee came forward to surrender total sum of Rs. 5 crores as additional income for the entire search period for various individuals put together and Rs. 20 crores as additional income disclosed in the hands of the company M/s. Better Option Prop Mart Pvt. Ltd. The assessee along with various individuals made the surrender of additional income for various years in the return of income as under:-

Name	AY 2007-08	2008-09	2009-10	2010-11	2011-12
Ram Prakash	3,20,000	14,00,000	40,00,000	25,00,000	1,05,00,000
Amit Mavi (assessee before us)					1,00,00,000
Gaurav Mavi			25,89,974		20,00,000
Shakuntala Devi	10,00,000	5,50,000		21,00,000	28,50,000
Kalpana		4,49,300	6,60,000		5,00,000
Deepti			4,40,000	13,15,000	25,00,000
Abhishek Mavi		8,75,000	15,00,000	1,00,000	15,00,000

4. Total surrender of additional income in the hands of various individuals including the assessee is Rs. 4,96,49,274/- as against the estimated disclosure made in the statement u/s 132(4) of the Act at Rs. 5 crores. The Id AO while completing the assessment u/s 143(3) of the Act on 31.03.2013 for AY 2011-12 added a sum of Rs. 1 crore as additional income in the hands of the assessee on the ground that the assessee made a disclosure of additional income of Rs. 2 crores in the statement made u/s 132(4) of the Act whereas it had included only a sum of Rs. 1 crore as additional income while filing the return of income for AY 2011-12. Hence, the difference figure of Rs. 1 crore was added as income by the Id AO while framing the assessment. This action of the Id AO was upheld by the Id CIT(A).

5. At the outset, it is not in dispute that the entire addition of Rs. 1 crore was made by the Id AO in the hands of the assessee merely by placing reliance on the statement made u/s 132(4) of the Act. In the assessment order in paragraph 2 specifically says that the surrender of income of Rs. 1 crore offered by the assessee towards payment for purchase of industrial plot and towards cost of diamonds. It is a fact that total disclosure of Rs. 5 crores was made by the assessee in the statement u/s 132(4) of the Act at the time of search to be offered in the hands of various individuals. At that point in time, the assessee had disclosed a sum of Rs. 2 crores to be offered in his name and Rs. 1 crore each in the hands of the Ram Prakash, Gaurav Mavi and Abhishek Mavi. However, while filing the income tax return for all the individuals, the assessee had included the names of Shakuntala Devi, Kalpana and Deepti also by offering additional income in their hands to the extent of actual undisclosed income pertaining to them. On the date of search, absolutely the assessee did not have the benefit of breakup of additional income to be offered in the hands of lady individuals. However, while filing the income tax return, the assessee had the benefit of all the seized documents and the respective assets found and had voluntarily come forward to offer the additional income in the respective individual hands depending upon the undisclosed income pertaining to them and assets pertaining to them. As stated supra, the total of actual disclosure of additional income in the hands of the various individuals was Rs. 4,96,49,274/- as against the estimated disclosure of Rs. 5 crores in the statement u/s 132(4) of the Act. The difference is a meager sum of Rs. 3.05 lakhs. In any event, there is absolutely no case for the revenue to even make this addition of Rs. 1 crore as it is not supported by any corresponding assets found at the time of search or any corroborative material thereon. Considering the totality of the facts and circumstances of the case, we have no hesitation to delete the addition made in the sum of Rs. 1 crore made by the Id AO which is absolutely without any basis except placing reliance on the statement u/s 132(4) of the Act which had indeed been honored by the assessee and his family members collectively. Accordingly, grounds raised by the assessee are allowed.

6. In the result the appeal of the assessee is allowed.

Order pronounced in the open court on 04/04/2024.

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

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated:04/04/2024
A K Keot

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

ASSISTANT REGISTRAR
ITAT, New Delhi