

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

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

Sh. Anubhav Sharma, Judicial Member

ITA No. 1936/Del/2021 : Asstt. Year : 2011-12

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| Vikas Kalia, 1057, Chuna Bhatti, Yamuna Nagar, Haryana-135001 | Vs | DCIT, International Taxation, Circle Gurgaon |
| (APPELLANT) | | (RESPONDENT) |
| PAN No. AUEPK2265M | | |

Assessee by : Sh. Laksh Malik, CA

Revenue by : Sh. S. N. Pandey, Sr. DR

Date of Hearing: 01.04.2024

Date of Pronouncement: 04.04.2024

ORDER

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

The present appeal has been filed by the assessee against the order of Id. CIT(A)-43, New Delhi dated 18.08.2021.

2. Following grounds have been raised by the assessee:

"1. That the CIT(Appeals) and Assessing Officer, Circle Gurugram, International Taxation, Gurugram have not acted in accordance with the law in making the assessment of the income of the assessee.

2. That the CIT(Appeals) and Assessing Officer were not correct in considering the Interest Income as undisclosed income of the Appellant u/s 69 of the Act as the same has already been disclosed while filing Return of Income u/s 139 of the Act and also Investment in Dubai of NRI as undisclosed income u/s 69 of the Act without considering the supporting documents of ITR and NRI status filed on 20/12/2018.

3. The CIT(Appeal) was unjustified and acted contrary to law in making an addition of Rs 51,40,000/- for purchase of property by NRI in Dubai and already declared interest

income of Rs. 53,001/- under Section 69 of the Act without providing for opportunity of being heard which was specifically requested during the course of proceedings for better representation of case and to provide any information and explanation which was wanting before adjudication as supporting documents are already filed on 20/12/2018 during assessment proceedings.

4) The AO has not applied independent application of mind not amounting to formation of belief and is bad in law.

5. The Penalty proceedings initiated u/s 271(1)(C) be quashed being consequential to the illegal and impugned additions made.

6. The impugned order of Ld. ITO u/s 144/147 is bad in law and needs to be set aside in toto as nor notice u/s 143(2) of the act was issued."

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

4. The assessee is living in Dubai since November 1995 and is NRI. During the Assessment Year 2011-12, the assessee total income from all sources in India was below taxable limit and he has filed his return of income u/s 139 of the Income Tax Act, 1961 declaring income of Rs.53,001/-. The documents related to NRI and ITR for Rs. 53,001/- filed u/s 139 were filed with AO on portal vide acknowledgement no.2012201811047372 dated 20.12.2018 which was not considered while framing order dated 26.12.2018 by the AO. On perusal of the return filed, we find that this interest income has been duly offered to tax, hence, no addition is called for on this account.

5. The AO made addition of Rs.51,40,000/- on account of the information received by the ITO. The AO held that the assessee did not submit any documentary evidences and hence treated the same u/s 69 of the Income Tax Act, 1961. The Id. CIT(A) also held that the appellant has failed to submit any supporting documents to justify the acquisition of property.

6. We have gone through the paper book submitted by the assessee containing 62 pages and also the order of the Id. CIT(A).

7. On going through the facts, we find that neither the assessee nor the revenue has brought on record the relevant details pertaining to the alleged acquisition of the property. Hence, it is strongly felt that ends of justice would be well served by remanding the matter to the file of the Id. CIT(A) to afford an opportunity to the assessee and pass an order on merits of the case.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 04/04/2024.

Sd/-
(Anubhav Sharma)
Judicial Member

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

Dated: 04/04/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR