

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **370/CHNY/2023**

निर्धारण वर्ष/Assessment Year: 2015-16

**Shri Satish Babu Kannan,**

V131, Bellezea, Nambiar Builders,  
Narayanaghatta Village,  
Muthanallur Post,  
Bengaluru – 560 099.

**The Income Tax Officer,**

Vs. International Taxation Ward  
1(2),  
Chennai.

**PAN: DIRPK 1908R**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri D. Anand, Advocate &  
Shri M. Karunakaran, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri V. Nandakumar, CIT

सुनवाई की तारीख/Date of Hearing

: 24.04.2024

घोषणा की तारीख/Date of Pronouncement

: 30.04.2024

**आदेश /ORDER**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the final assessment order dated 30.01.2023 passed by the Income Tax Officer, International Taxation 1(2), Chennai u/s.147 r.w.s.144C(13) of the Income Tax Act, 1961 (hereinafter the 'Act') in pursuant to the

directions of the Dispute Resolution Panel-2, Bengaluru dated 12.12.2022..

2. At the outset, the Id.counsel for the assessee made arguments that the AO has made additions of application of income and not assessed the income on the following issues (i) Payment to non-resident u/s.195 of the Act of Rs.19,108/-, (ii) Payment of credit card bills i.e., reimbursement of Rs.24,27,604/-, (iii) Purchase of units of mutual fund of Rs.50,00,000/- & (iv) Purchase of immovable property of Rs.2,03,56,355/-, in aggregate to Rs.2,78,03,067/-. When it was pointed out to Id.counsel that which ground he is relying on apart from grounds of reopening or on jurisdiction, the Id.counsel for the assessee drew our attention to ground Nos.5 & 6, which reads as under:-

“5. During the DRP hearings, the appellant had furnished the following documents in support of the investments made and expenses incurred along with the source of the funds:

- a) Credit card statements and letter from TVS for the travelling expenses
- b) HDFC mutual fund statements
- c) Sale agreement with Ms.Nambiar Builders Private Limited
- d) Bank statements of HDFC Bank and ABN Amro
- e) Letters from the banker certifying the bank accounts are NRE accounts
- f) Letter from certified accountant in Netherlands certifying the residential status of the appellant in Netherlands for AY 2015-16

These documents are kept as part of the appellant's paper book. The case was not decided on merits only because of the delay in filing the objections before the Hon'ble DRP by five days.

6. The investments made and the expenses incurred by the appellant are incorrectly treated as income. No reasons are adduced in the assessment order as to why the payments are treated as income in the hands of the appellant who was a non-resident for AY 2015-16.”

3. The Id.counsel for the assessee briefly stated the facts that the assessee Shri Satish Babu Kannan is presently residing at V131, Bellezea, Nambiar Builders, Narayanaghatta Village, Muthanallur Post, Bengaluru-560 099. He was employed with TVS Next Limited as CEO having duties of senior management and customer interaction during 2013 to 2016. He stated that the assessee was a NRI and he resided in USA between August, 1997 to January, 2008 and then from January, 2008 to July, 2015 in Netherlands. The Id.counsel further explained that the assessee prior to his return to India made following investments:-

- a) Mutual funds - Rs.50,00,000/-
- b) Property (currently self-occupied) – Rs.2,03,56,355/-
- c) During AY 2015-16, the assessee received salary of Rs.1,08,500/- and incurred travelling expenses of Rs.24,27,604/-, out of which Rs.19,36,814/- was reimbursed by TVS as part of his job profile.

3.1 The Income-tax Department received information that the assessee has received salary of Rs.1,08,500/-, payment to non-resident u/s.195 of the Act for an amount of Rs.19,108/-, paid credit

card bills of Rs.24,27,604/-, purchased units of mutual funds for an amount of Rs.50,00,000/- and made payment for purchase of immovable property for a sum of Rs.2,03,56,355/- during the year but has not filed return of income. Hence notice u/s.148 of the Act dated 31.03.2021 was issued and duly served. Subsequently, assessee's case was scrutinized by issuing notice u/s.142(1) of the Act and in response to the same, assessee did not file any return of income. Accordingly, the AO passed draft assessment order u/s.144C r.w.s. 147 of the Act dated 24.03.2022 for the relevant assessment year 2015-16 and computed the income as under:-

*In view of the above, the total income of assessee is computed as under:*

1. Income from salary	: 1,08,500/-
2. Income from other sources	
1. Payment to Non Resident u/s 195	: Rs.19,108/-
2. Payment of credit cards bills	: Rs.24,27,604/-
3. Purchased units of mutual fund	: Rs.50,00,000/-
4. Purchase of immovable property	: Rs.2,03,56,355/-
Total Income from other sources	: Rs.2,78,03,067/-
Total Taxable Income	: Rs.2,79,11,567/-

3.2 Aggrieved against the draft assessment order u/s.144 of the Act, the assessee moved to DRP raising objections. The DRP noted that the assessment order dated 24.03.2022 was served on assessee on 24.03.2022 but assessee filed objections on 29.04.2022, which is beyond the prescribed period, as prescribed

u/s.144C(2) of the Act i.e., beyond 30 days and hence, rejected as not-maintainable. The relevant para 4 of the DRP order dated 12.12.2022 reads as under:-

*“4. In view of the provisions of sub section (2) of section 144C of the Income Tax Act, 1961 read with rule 4 of the Income Tax (Dispute Resolution Panel) Rules, 2009, it is clear that the assessee needs to file the objection and paper book in person or through his agent before the DRP as well as before the Assessing Officer within 30 days from the date of receipt of Draft Assessment Order.”*

3.3 Consequently, the AO framed final assessment order dated 30.01.2023 repeating the same income as under:-

*a) In view of the above, the total income of assessee is computed as under:*

<i>(A) Income from salary</i>	<i>: 1,08,500/-</i>
<i>(B) Income from other sources</i>	
<i>1. Payment to Non Resident u/s 195</i>	<i>: Rs.19,108/-</i>
<i>2. Payment of credit cards bills</i>	<i>: Rs.24,27,604/-</i>
<i>3. Purchased units of mutual fund</i>	<i>: Rs.50,00,000/-</i>
<i>4. Purchase of immovable property</i>	<i>: Rs.2,03,56,355/-</i>
<i>Total Income from other sources</i>	<i>: Rs.2,78,03,067/-</i>
 <i>Total Taxable Income</i>	 <i>: Rs.2,79,11,567/-</i>

*8. Accordingly, the Draft Assessment Order was passed under section 144 read with section 147 and read with section 144C(1) of the I.T. Act, 1961 assessing the Total Income at Rs.2,79,11,567/-. The order was issued to the assessee. Against this order, the assessee filed an objection before the Hon'ble DRP, Bengaluru.*

*9. The Hon'ble DRP, Bengaluru rejected the objection of the assessee vide its proceedings dated 12.12.2022. Accordingly, the final assessment order is completed as assessed income at Rs.2,79,11,567/-.”*

Aggrieved against this final assessment order passed in lieu of directions of DRP, the assessee filed appeal before the Tribunal.

4. Before us, the Id.counsel for the assessee admitted that there is a delay of 5 days in filing objections before DRP and DRP dismissed the objections on the ground that objections were not filed within 30 days time limit. The Id.counsel stated that the draft assessment order was received after 30 days of the date of order and this fact has been overlooked by DRP. It was contended that as per section 144C(2) of the Act, the eligible assessee on receipt of draft order, shall, within thirty days from the date of receipt of the draft order will file his objections against the order of the AO i.e., draft assessment order. He stated that the language in the provisions of section 144C(2) of the Act is very clear that the time limit of 30 days start from the date of receipt of the draft assessment order. The Id.counsel for the assessee stated that the draft assessment order dated 24.03.2022 was received by assessee only on 24.04.2022 and thereafter the assessee filed objections on 29.04.2022 within the time limit. The Id.counsel for the assessee also stated that he has filed complete details before AO during passing of final assessment order or before DRP in regard to the following:-

- a) Credit card statements and letter from TVS for the travelling expenses
- b) HDFC mutual fund statements
- c) Sale agreement with Ms.Nambiar Builders Private Limited
- d) Bank statements of HDFC Bank and ABN Amro
- e) Letters from the banker certifying the bank accounts are NRE accounts
- f) Letter from certified accountant in Netherlands certifying the residential status of the appellant in Netherlands for AY 2015-16

In view of the above, the Id.counsel stated that one more opportunity be allowed to the assessee to explain his case as the documents were already filed before the AO as well as the DRP.

5. When these facts were confronted to Id.CIT-DR, he could not controvert the fact as regards to receipt of order after 30 days from the date of draft assessment order, as contended by Id.counsel for the assessee. Even it was not contested by Id.CIT-DR that these details are not with either the AO or the DRP. Even the details are filed with the Tribunal now in assessee's paper-book and the Id.counsel pointed out the details and tried to make out a prima facie case. Without going into the merits and without deliberating anything on merits, in the given facts and circumstances, we restore this matter back to the file of the AO for fresh adjudication as per law. Accordingly, the order of AO and that of the DRP both are set aside and appeal restored back to the file of the AO for fresh

adjudication. The appeal of the assessee is allowed for statistical purposes.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 30<sup>th</sup> April, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

**(S.R. RAGHUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 30<sup>th</sup> April, 2024

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.