

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH: CHENNAI

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री अमिताभ शुकला, लेखा सदस्य के समक्ष  
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER  
आयकर अपील सं./ITA Nos.654/Chny/2023  
निर्धारण वर्ष /Assessment Years: 2014-15

Income-tax  
International Taxation Ward,  
Tuticorin, Tamil Nadu

Officer,

Shri Abdul Rahman Viswas Abdul  
Salam, No.64/114, Kalvath Nayagam  
Street, Kadayanallur, Tenkasi Dist,  
TN-627751  
[PAN: APPPA9666L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr.Abhishek Murali, CA

प्रत्यर्थी की ओर से /Respondent by

: Shri ARV Srinivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 04.06.2024

घोषणा की तारीख /Date of Pronouncement

: 12.06.2024

**आदेश / ORDER**

**PER AMITABH SHUKLA, A.M :**

This appeal is filed against the order bearing DIN & Order No.ITBA/APL/S/91/2022-23/1051586742(1) DATED 29.03.2023 of CIT(A) 16, Chennai. Through the aforesaid appeal the Revenue has challenged order u/s 250 dated 29.03.2022 passed by CIT(A) 16, Chennai.

2.0 In the instant case orders u/s 147 r.w.s 144C(3) dated 30.05.2022 was passed by the assessing officer determining total income of the assessee at Rs.1,85, 36,283/- against returned income of

:- 2 -:

Rs.12,96,620/- after making an addition of Rs.1,68,12,289/- under the head salary and Rs.4,27,374/- as income from other sources.

3.0 Brief factual matrix of the case as available in the impugned assessment order is as under:-

*"....Notice u/s. 129 issued to assessee on 19.03.2022 to intimate the change of jurisdiction and subsequently notice u/s.142(1) was issued on the same date. The assessee was requested to explain the source for increasing capital and requested to furnish the cash flow statements for the FY 2012-13 and FY 2013-14 to analyse the nature/source for the inflows. Simultaneously notice U/s 133(6) was issued on 19.3.2022 for confirmation of credits made for Rs.1,68,12,289 made though RTGS HSBCH 13273473645 FHEED R AMAD ABDULLAH AL OYONI, on 30.9.2013. The Bank Manager furnished reply stating that the account is an NRE account.*

*The assessee has furnished two certificates of TO WHOM IT MAY CONCERN one from chairman dated 28.08.2016 without **any Ref. No.** that the amount of Rs. 1,68,12,289/- has been credited as bonus, from his account to the assessee account and the other from President dated 24.03.2022 in reference No. 0057/22 that his salary is 63,500 SAR and the Passport No. Z2695231. There is no mention about the year and month of the salary paid. It is reproduced as below:*

*"This is to inform you that Mr. Abdul Rahman Viswa Abdul Salam, Indian National Holds a passport No. Z2695231, Saudi Resident Iqama No. 2006405233 is working with Al Ayuni Investment & Contracting Co. as Chief Operating Officer since 16-12 1982 up to present and his salary is 63,500/- SAR.*

*This certificate has been issued upon the employee request without any responsibility to the company."*

*In the view of the above, both are not found to be genuine for the following reason,*

*1. The letter issued by the chairman has not reference number. Also, RTGS means real time gross settlement. It is a facility provided by RBI for inter-bank transactions in India. Any inter-*

*:- 3 -:*

*bank transactions above 2 lakh rupees are settled on real time basis i.e. instant transfer. Here the transaction is through RTGS from account of chairman in HSBC Bank. The salary for the NRI since 1982 and the salary/ bonus due for him is not credited in his NRE account directly by the company and the salary for the year 2013 is not paid in SAR. The amount is transferred in Indian currency from chairman account to the assessee's savings account in ICICI bank.*

*2. In the CEO's letter the passport number differs with that of already attached by the assessee. There is no mention about salary paid for the year. It is also uncertain for issuing the certificate.*

*As an NRI, the money transferred within India could not be a source from foreign and the income whether salary or bonus arised in India is taxable in India. It is to be noted that Indian Rupee is remitted in the assessee's account. It could not be concluded that the remittance in NRE account is the evidence for his service rendered abroad .The amount of INR Rs.1,68,12,289/- from HSBC account of his chairman, his salary rendered service in India, is added back to the return of income under the head salary. The interest accrued or arised due is also added to the return of income under the head income from other sources for Rs.4,27,374/-.*

*Draft assessment order was passed on 31-03-2022 and served manually on 01-04-2022.*

*Section 144C(2) of the Income-tax Act, 1961,*

*On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,-*

- (a) File his acceptance of the variations to the Assessing Officer; or*
- (b) File his objections, if any, to such variation with,-  
(i) the Dispute Resolution Panel; and ....”*

: - 4 - :

4.0 Aggrieved by the above order the assessee preferred an appeal before the Ld.CIT(A) who deleted the additions made by the assessing officer.

5.0 Aggrieved by the relief accorded by the Ld.CIT(A), the Revenue has preferred present appeal requesting for quashing of order of the Ld.CIT(A) and that the order of the assessing order be restored. Revenue has raised grounds of appeal no.1 to 8 contesting the impugned order of the Ld.CIT(A). Ground of appeal no. 1 & 8 are general and do not require any adjudication.

6.0 Grounds of appeal no. 2 to 5 are regarding an addition of Rs. 1,68,12,289/-, on account of bonus received by the assessee from his employer, a Saudi Arab based Company. It is the case of the Revenue that the receipt of alleged bonus amounting to Rs.1,68,12,289/-, by the assessee suffers from various inconsistency. The DR submitted that the bonus has not been paid by the company but from the Chairman's personal account. It was also submitted that the bonus was credited to assessee's domestic Indian account with ICICI bank and not in its NRE account and also that the same was paid by the chairman's domestic Indian account with HSBC Bank. This position was reported to be in contrast to the claimed non-

:- 5 -:

resident status of the assessee. Inconsistencies in passport numbers etc were also cited.

7.0 Grounds of appeal no. 6 & 7 are regarding an addition of Rs.4,27,374/- on account of interest. On the issue of addition of interest of Rs.4,27,374/-, the Ld.DR submitted that the addition is in order and deserves to be confirmed.

8.0 The Ld.AR submitted that the facts of the case have not been properly appreciated by the Ld.AO before making the addition. On the issue of the said bonus addition the Ld.AR submitted that the amount has been paid through RTGS mode by the chairman of the company from his overseas account. Necessary evidence in support was filed. The Ld.AR submitted that there is no infirmity in this transaction. As regards, the controversy of assessee receiving the money in his Indian non-NRE account, the Ld.AR submitted that on Page-2 of the para-3 of his order, the AO has himself recorded that *“the bank manager furnished reply stating that the account (i.e. of the assessee) is an NRE account...”*. It was submitted that there is no scope for any doubt on this issue. On the issue of interest addition the Ld.AR drew our attention to entries in assessee's bank account bearing no.612901150219 with ICICI bank indicating that interest was credited in assessee's account by the bank. It was submitted that the interest

in NRE accounts are non-taxable. As regards, difference in entries of impugned interest and the actual addition made by the AO, the Ld.AR submitted that the balance interest income was from other domestic accounts and was below the threshold limit for taxation.

9.0 We have heard rival submission in the light of facts of the case and material brought on records. As regards grounds of appeal no. 2 to 5 it is seen that the averments made by the assessing officer for making the impugned addition are not supported by any evidence on record. The observations made are thus revolving around conjectures and surmises only. Upon careful consideration of the fact, we are of the opinion that the order of the Ld.CIT(A) is based upon correct understanding facts of the case and does not require any interference at this stage. **Accordingly, the order of the Ld.CIT(A) is sustained and grounds of appeal no. 2 to 5 raised by the Revenue are dismissed.**

10.0 As regards the issue of addition of Rs.4,27,374/- on account of interest , in the very first place it is seen that the AO has miserably failed in making a meaningful addition. This is evident from the following only observations made by him in the assessment order *"...The interest accrued or arised due is also added to the return of income under the head income from other sources for*

: - 7 - :

Rs.4,27,374/-...". It goes to indicate that the addition was made in the most routine manner without any application of mind. Without prejudice the defence put forth by the Ld.DR has been found to be in order. **Accordingly, the order of the Ld.CIT(A) is sustained and grounds of appeal no. 6 & 7 raised by the Revenue are dismissed.**

**11.0 In the result appeal of the Revenue is dismissed**

*Order pronounced on 12<sup>th</sup> June, 2024 at Chennai.*

**Sd/-**

(यस यस विश्वनेत्र रवि)

**(SS Viswanethra Ravi)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

(श्री अमिताभ शुक्ला)

**(Amitabh Shukla)**

लेखा सदस्य / **Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 12<sup>th</sup> June, 2024.

KB/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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