

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'H' BENCH,
NEW DELHI

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 69/DEL/2024[A.Y 2017-18]

The Dy. C.I.T.
Circle 34(1)
Delhi

Vs.

Shri Vaneet Aggarwal
49, Narela Road
Bawana, Delhi

PAN: AAFPA 9789 F

(Applicant)

(Respondent)

Assessee By : Ms. Ragini Handa, Adv
Department By : Shri Amit Katoch, Sr. DR

Date of Hearing : 02.07.2024
Date of Pronouncement : 05.07.2024

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the Revenue is preferred against the order of the NFAC, Delhi dated 10.11.2023 pertaining to A.Y 2017-18.

2. The grievances of the Revenue read as under:

"1. The Ld. CIT(A) has erred in not appreciating the fact that the assessee had returned 'No' in Form 1 of IDS against the column asking "whether any part of income referred in (1) above is in the form of investment in asset."

2. The Ld. CIT(A) has erred in not appreciating the fact that from the form of the assessee it cannot be ascertained whether the assessee had invested in some movable or immovable property. This amount to suppression of facts and contrary to the statutory requirements of the Form 1 as held by Hon'ble Delhi High court in Ankush Jain vs Principal Commissioner of Income Tax-4 W.P. (C) 6541/2017 &6543 of 2017 dated 21.08.2019 and CBDT Circulars in relation to IDS, 2016.

3. The appellant craves leave for permission to modify any of the grounds of appeal/raise additional grounds of appeal at the time of hearing."

3. Representatives of both the sides were heard at length. Case records carefully perused. Relevant documentary evidence brought on record duly considered in light of Rule 18(6) of the ITAT Rules.

4. Briefly stated, the facts of the case are that the assessee is a proprietor engaged in the business of trading of tobacco and cloth by the name of Geeta Aggarwal & Sons. The assessee is also a partner in GVI Hardware. Return of income was filed on 29.10.2017 declaring income of Rs. 52,37,690/-. In the instant year, the Assessee had declared Rs. 5 crore as business income under the Income Disclosure Scheme, 2016 ("IDS Scheme") on 30.09.2016 for a period of 14 years from 2003-2016. The Assessing Officer vide order dated 28.12.2019 passed u/s 143(3) of the Act did not accept the explanation of the Assessee and made an addition of Rs. 5 crore under section 68 of the Act on account of cash deposit.

5. Aggrieved, the assessee went in appeal before the ld. CIT(A) and reiterated the contentions raised before the Assessing Officer.

6. After considering the facts and submissions, the ld. CIT(A) allowed the appeal of the assessee by holding that the cash deposit of Rs 5 crore was out of the disclosure of Rs. 5 crores under IDS, made for 14 years commencing from 2003-04 to 2016-17. The CIT(A) found that the tax of Rs. 2.25 crore has been paid thereon and subsequently the

assessee has also received certificate of payment of taxes paid in the Form 4.

7. The ld. CIT(A) was of the opinion that the assessee has made disclosure in the form of cash in hand available with him on the date of declaration. The assessee has made disclosure in respect of business income, which was in the form of cash in hand and not in the form of Investment in asset, jewellery etc. as reckoned by the Assessing Officer. Accordingly, the ld. CIT(A) allowed the appeal of the assessee.

8. Now the Revenue is before us against the deletion of addition made by the Assessing Officer.

9. The ld DR strongly relied on the orders of the Assessing Officer.

10. Per contra, the ld AR submitted that the reasons and basis of the Assessing Officer for making the addition are that the assessee had vaguely filed Form 1 of IDS and had omitted to fill the form in which undisclosed income was held at the time of declaration. It was stated that the assessee had written 'No' against the column asking "*whether any part of income referred in (1) above is in form of investment in asset*". The ld counsel of the assessee argued that the Assessing

Officer observation that from the form of IDS, it cannot be ascertained whether the Assessee had invested that money back in the business or had made expenditure or had invested in some movable or immovable property is incorrect. It was submitted that the reliance on Hon'ble Delhi High Court decision in the case of *Ankush Jain Vis Principal Commissioner of Income Tax-4 WPO 6541/2017 & 6543 of 2017 dated 21.08.2019* was distinguishable. The ld. counsel for the assessee has relied on the decision of the Calcutta High Court in the case of *PCIT Vs. Manju Ostwal 443 ITR 107 order dated 11.02.2022*.

11. We have heard the rival submissions and have perused the relevant material on record. We find that the cash in hand of Rs. 5 crore for a period of 14 years from 2003-2016 was offered for tax in IDS on which the assessee has paid tax of Rs 2.25 crore. The breakup of income declared each year is given in the form and the nature of undisclosed income is business income. This declared cash of Rs. 5 crore was deposited in the bank. Out of this cash deposit, the tax, interest and penalty of Rs 2.25 crore was paid out. The addition made by the Assessing Officer thus, tantamount to double addition.

12. We also find that the disclosure was made in respect of business income which was not in form of investment in asset, jewellery, property, shares, etc. The declaration was in the form of cash in hand and therefore the assessee had responded “No” to the question whether any part of income referred is in the form of investment in asset or credit in a bank account or in form of fictitious liability or linked to any asset disclosed in the balance sheet.

13. The decision relied upon by the Assessing Officer in the case of Ankush Jain in WP(C) 6541/2017 * 6543 of 2017 dated 21.08.2019 is distinguishable on facts and does not help the Assessing Officer. In the said case, the declaration under the IDS was held to be void by the PCIT whereas in the instant case, the declaration has been held to be valid and duly accepted by the authorities. In the present case, tax, interest and penalty has been duly deposited and Form 4 issued. We also find that the decision of Calcutta High Court in the case of PCIT Vs. Manju Ostwal, relied upon by the assessee, supports the case of the assessee.

14. In that view of the matter, we have no hesitation in confirming the order of the first appellate authority in deleting the addition so made by the Assessing Officer. Accordingly, ground raised by the Revenue is dismissed.

15. In the result, the appeal of the Revenue in ITA No. 69/DEL/2024 is dismissed.

The order is pronounced in the open court on 05.07.2024.

Sd/-

**[CHALLA NAGENDRA PRASAD]
JUDICIAL MEMBER**

Sd/-

**[NAVEEN CHANDRA]
ACCOUNTANT MEMBER**

Dated: 05th JULY, 2024.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
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