

**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

IT(IT)A No. 196/Bang/2024
Assessment Year : 2015-16

Shri Hemant Jivan, No. 23, Skylark Green, # 1 R Narayanapura Village Airport Whitefield Road, Bangalore – 560 066. PAN: AEDPJ4645P	Vs.	The Income Tax Officer (International Taxation), Ward – 1(2), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Deepesh Wagle, CA
Revenue by	:	Ms. Neera Malhotra, CIT-DR

Date of Hearing	:	22-04-2024
Date of Pronouncement	:	28-06-2024

ORDER

PER KESHAV DUBEY, JUDICIAL MEMBER

This appeal at the instance of the assessee is directed against the order passed by the assessing officer u/s. 147 r.w.s. 144 of the Income Tax Act, 1961 in pursuance of the direction of the Dispute Resolution Panel for the Asst. Year 2015-16.

2. The assessee has raised the following grounds: -

“1. The learned Dispute Resolution Panel- I Bangalore erred in not acknowledging the fact that the Assessing Officer is not justified in making the additions as the material on record has not been appreciated.

2. The learned Dispute Resolution Panel has erred in not acknowledging the fact the Appellant has no taxable source of income earned or accrued in India.

3. The Learned Dispute Resolution Panel has erred in not acknowledging the fact that the Learned AO has made the impugned additions without applying his mind.”

3. The brief facts of the case are that the appellant is a senior citizen of Seychelles and holder of OCI cards. The appellant has lived most of his life in Seychelles and was involved in carrying on business. The Appellant has also filed his return of income in Seychelles for the year 2015. The appellant has ceased his business operations due to his old age and the major source of his income is only the rental income.

4. The Appellant has purchased the residential apartment jointly with his daughter located at 605, A Block K R Puram Hobli Bangalore. The consideration paid was INR 1,33,19,048/-. The Appellant has made a payment towards the same through the NRE account maintained with the Standard Chartered Bank MG Road Branch. Further the Amount of INR 300,000/- was paid through the HDFC Bank, Whitefield Branch.

5. The Appellant received interest income of INR 82,743/- from HDFC Bank and INR 18,847/- from Standard Chartered Bank. The Appellant has also not made any new investments during the AY 2015-16. Further the taxable income in India during the

period under consideration does not exceed the maximum amount which is not chargeable to Income Tax.

6. The AO on the contention that the Appellant did not file any return for the AY 2015-16 and based on the credible information gathered that the Appellant involved in the following transaction -

- a) Purchased an immovable property value at Rs. 1,33,19,048/-
- b) Received Interest income of Rs.82,743/-
- c) Payment made to non-residents of Rs. 4,28,888/-
- d) Paid Rs. 200,000/- or more for the purchase of units of Mutual Fund- Rs. 20,73,298/-.

a show cause notice U/s 148A(b) of the Income Tax Act 1961(hereafter called the IT Act 1961) was issued to the Appellant on 21.03.2022 followed by a notice U/s 148 of the IT Act 1961.

7. Further, the draft Assessment Order was passed on 28.03.2023 under section 144C(1) of the Income Tax Act 1961. The Appellant filed a petition in form 35A objecting to the draft order. The Appellant also filed the objections before the Ld. DRP on 25.04.2023. Finally the DRP upheld the view taken by the assessing officer.

8. The AO on the ground that in absence of conclusive documents/details/evidences furnished by the Appellant during the course of Assessment proceedings made the following additions while passing the Assessment Order U/s 147 r.w.s 144 of the I. Tax Act,1961 –

Particulars	Amount (INR)
Unexplained Investment U/s 69	1,30,28,861/-
Interest Income	82,743/-
Unexplained Investment U/s 69	20,73,298/-
Assessed Income U/s 147 r.w.s 144 of the I.T. Act	1,51,84,902/-

11. Aggrieved by the assessment completed u/s. 147 r.w.s. 144, as per the direction of the DRP, the assessee has filed the present appeal before the Tribunal.

12. The assessee filed additional evidences along with an application for admitting the additional evidences as per Rule 29 of the Income Tax Appellate Tribunal Rules, 1963 as below: -

Sl. No.	Particulars	Page Nos.
1	Income Tax return filed by the appellant in Seychelles and confirmation from the appellant recipient bank in India stating the credits are from RTGS transfer from Barclays Bank in Seychelles. A certificate from the Chartered Accountant in Seychelles stating your appellant is tax resident of Seychelles and paying taxes on Seychelles.	1-17
2	Mutual Fund statement of the appellant	18-21

The learned A.R. of the assessee submitted that the assessee, due to inadvertence, could not produce these evidences before the lower authorities and prayed to admit the additional evidences as it goes to the very root of the issue in appeal.

13. The Ld. DR on the other hand supported the order of the income tax authorities below and vehemently submitted that as the assessee failed to produce conclusive documents/ details/ evidences in support of the Sources during the course of proceedings and hence the Appeal is liable to be dismissed.

14. We have heard both the parties on admission of additional evidences. In our opinion these additional evidences are very much necessary for proper adjudication of the case and the reason explained by the assessee for not producing the same before the lower authorities are bona fide. Accordingly we admit the additional evidences filed before us.

15. Before us, the Ld.AR of the assessee by referring the Pages 1 to 21 of the Additional Evidences produced before us submitted that the income tax return are filed by the appellant in Seychelles being the senior citizen of Seychelles and also the confirmation from the appellant recipient bank in India stating the credits are from RTGS transfer from Barclays Bank in Seychelles are on Record. Further A certificate from the CA in Seychelles stating that the appellant is a tax resident of Seychelles and paying taxes in Seychelles along with mutual fund statements are produced as additional evidence before us. We are of the opinion that all these additional evidences produced before us needs to be examined by the AO/TPO and therefore in the interest of justice and equity, we deem it fit to remit this issue to the file of AO/TPO for examining the same after giving an opportunity of being heard to the assessee.

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

Order pronounced in the open court on 28th June, 2024.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(KESHAV DUBEY)
Judicial Member

Bangalore,
Dated, the 28th June, 2024.

/MS /

Copy to:

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|---------------|------------------------|
| 1. Appellant | 2. Respondent |
| 3. CIT | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A) |

By order

Assistant Registrar,
ITAT, Bangalore