

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, " B-Bench" JAIPUR

श्री राठौड़ कमलेश जयन्तभाई, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI RATHOD KAMLESH JAYANTBHAI, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 285/JPR/2024
निर्धारण वर्ष / Assessment Years : 2017-18

Singhal Builders A-98, Ranjeet Nagar, Bharatpur	बनाम Vs.	ACIT, Circle, Bharatpur
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AAPFS 9809 Q		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : Shri Hemang Gargieya (Adv.)
राजस्व की ओरसे / Revenue by: Shri Anoop Singh (Addl. CIT) (V.C)

सुनवाई की तारीख / Date of Hearing : 10/07/2024
उदघोषणा की तारीख / Date of Pronouncement : 15/07/2024

आदेश / ORDER

PER: NARINDER KUMAR, J.M.

The appellant is a partnership firm. By way of this appeal, it has challenged order dated 15.02.2024 passed by Learned CIT(A)/NFAC, Delhi.

The impugned order pertains to the A.Y 2017-18, whereby Learned CIT(A) partly allowed the appeal filed by the assessee-appellant, while

challenging assessment order dated 16.12.2019 passed by the Assessing Officer.

2. By way of said assessment order, total income of the assessee was computed as under:-

(All amounts in Rupees)		
1. Returned income, as declared by the assessee		3148560
2. Additions/disallowances		5469243
(a) Excess claim of Depreciation	787502	
[as discussed in Para-04 above]		
(b) Trading Addition	3115121	
[As discussed in Para-05 above]		
(c) Interest on Income Tax Refund	1566620	
[as discussed in Para-06 above]		
3. Total Income		8617803
	R/o	8617800

Significant to note that the first mentioned two additions have been deleted by Id. CIT(A).

3. As regards the 3rd addition i.e. interest on income tax refund, as observed by Assessing Officer the assessee firm had received total interest u/s 244A on the amount refund, but shown total interest of Rs. 4,88,959/- under the said provision; that the assessee did not report his income to the tune of Rs. 10,77,661/-.

Accordingly, an addition of Rs. 15,66,620/- was made by the Assessing Officer by observing that the interest on amount of refund was to be treated as income from other sources.

4. As regards the abovesaid finding on the point of interest on refund, Id. CIT(A) upheld the same while observing that the interest income was income from other sources. At the same time, Id. CIT(A) held that interest income to the tune of Rs. 4,88,959/- only was the income from other sources. In this manner, the Id. CIT(A) deleted an addition of Rs. 10,77,661/- made by the AO, and upheld the addition and to the extent of Rs. 4,88,959/-.

5. Hence, this appeal

6. Arguments heard. File perused.

7. As noticed above, the appeal filed by the appellant came to be dismissed by Id. CIT(A) in part i.e. on the point of interest income on

refund. As per impugned order, such income by interest on refund is actual income other sources, and not a part of business income of the assessee firm.

8. While challenging the above-said finding, Id. AR for the appellant has contended that Id. CIT(A) erred in confirming the addition of a sum of Rs. 4,88,959/-, as said addition made by the Assessing Officer is contrary to the provisions of law. Therefore, it has been urged that the impugned order upholding the addition as regards the income by way of interest on refund, deserves to be set aside.

9. On the other hand, Id. DR for the department has submitted that he stands by the reasons recorded by the Assessing Officer & Id. CIT(A).

10. Admittedly, in the return of income, relating to the Assessment Year 2017-18, the assessee firm depicted income of Rs. 4,88,959/- against column No. 02(x) of Profit and Loss Account for the Financial Year 2016-17.

In the opinion of the Assessing Officer and Id. CIT(A), said income was not an income from business of the assessee, and rather an income from other sources. The fact remains that the said income of Rs. 4,88,959/- was shown under sub-column "any other income" of main column "other

income”, so far as Profit and Loss Account for the Financial Year 2016-17 is concerned.

Learned DR for the department does not dispute this fact.

No doubt, when interest is paid on the income tax refund amount, same is required to be reported under the head ‘income from other sources.’ Here, interest was admittedly allowed u/s 244A of the Act and the assessee firm somehow treated and depicted the said amount as business income, instead of income from other source, but there cannot be said to be any loss to the exchequer, particularly, when the assessee is said to have paid tax on said income at the same rate, even though under a different heading.

11. In view of the above discussion, the appeal filed by the assessee challenging the impugned order as regards the addition due to income by way of interest on refund, deserves to be allowed, and the addition deserves to be deleted.

Result

12. In view of above findings, the only argument raised on behalf of the appellant is accepted, and while allowing the appeal, impugned order confirming the addition of Rs. 4,88,959/- made simply because the same

“income from other sources” and not to be treated as a part of “ business income”, is set aside.

Order pronounced in the open court on 15/07/2024.

Sd/-

(राठौड़ कमलेश जयन्तभाई)

(RATHOD KAMLESH JAYANTBHAI)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 15/07/2024

*Ganesh Kumar, Sr. PS

आदेश की प्रतिलिपिअग्रेहित / Copy of the order forwarded to:

1. The Appellant- Singhal Builders, Bharatpur
2. प्रत्यर्थी / The Respondent- ACIT, Circle, Bharatpur
3. आयकर आयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्ड फाईल / Guard File ITA No. 285/JPR/2024)

Sd/-

(नरेन्द्र कुमार)

(NARINDER KUMAR)

न्यायिक सदस्य / Judicial Member

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar