

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'D' BENCH,
NEW DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 2245/DEL/2024 [A.Y. 2015-16]

Shri Ghalib Datta
Suit 902, Block - 18,
Heritage City, Gurgaon,
Haryana

Vs. The A.C.I.T
Circle -Inttl. Tax -
1(2)(2), New Delhi

PAN - AEPPD 5230 E

(Applicant)

(Respondent)

Assessee By : Shri Ankit Roy, Adv
Shri Aditya Agarwal, CA

Department By : Shri Vizay B Vasanta, CIT-DR

Date of Hearing : 29.07.2024

Date of Pronouncement : 06.08.2024

ORDER

PER NAVEEN CHANDRA, ACCOUNTANT MEMBER:-

This appeal by the assessee is preferred against the order of the ACIT, Circle International Taxation 1(2)(2), New Delhi dated 05.03.2024 pertaining to A.Y. 2015-16.

2. Briefly stated, the facts of the case are that the assessee had received foreign remittance of Rs 3,98,10,795/- during the FY 2014-15. The AO held the same as income on account of assessee's failure to substantiate his residential status and explain the foreign remittances.

3. The ld. counsel for the assessee contended that the assessee is a NRI as per Section 6 of the Income Tax Act, 1961, having stayed in India for less than 182 days during the A.Y 2015-16. The ld AR vehemently contended that the Assessing Officer erred in not considering the status of the assessee and place reliance on the passport entries of the assessee, filed as an additional document before the Tribunal, alongwith a tabulated data depicting the corresponding passport entries.

4. The ld. counsel for the assessee further submitted that the Assessing Officer failed to consider two FIRC's dated 24.06.2014 and 20.08.2014 for Rs. 1,55,99,400/- and Rs. 2,42,11,394.70 respectively. These remittances were made by the assessee from his firm's bank account in Dubai, i.e., GMG Associates FZC, to his HSBC savings bank account in India. The corresponding banking entries in the HSBC

savings bank account statement reflect these remittances. The said FIRC's was duly placed on record before the Assessing Officer and it erred in not considering that the income was derived in Dubai and remitted to India through valid banking channels [the FIRC's dated 24.06.2014 and 20.08.2014.

5. The ld. counsel for the assessee further submitted that the HSBC Bank Statement for June 2014 - Aug 2014 was also furnished. The remittances were made by the assessee through his firm, GMG Associates FZC, which is owned by the assessee. The income was derived from business activities conducted outside India, thus not liable to be taxed in India. Reliance is placed on the bank statement of GMG Associates FZC for the relevant AY, filed as an additional document before the Tribunal, highlighting the remittances made through its bank account on 22.07.2014 and 18.08.2014. It is a settled position of law, as held by the Hon'ble ITAT in various decisions, that remittance of money into India through banking channels discharges the onus on the assessee u/s 69 of the Act. The Assessing Officer should have considered that the remittances were made through established banking channels and thus erred in making the impugned additions.

6. Reliance was placed on the following judgements:
 - (i) Deputy Commissioner of Income Tax Vs. Sri Madhusudan Rao Lagadapati- **2015 SCC Online ITAT 3912 - Para 18;**
 - (ii) Iqbal Ismail Virani vs. Income Tax Officer - **2021 87 ITR (Trib) 654 - Para 25 and 26;**
 - (iii) Income Tax Officer Vs. Shri Devendra Labhshankar Vyas -**2011 SCC OnlineITAT 12209**

7. At the very outset of the opening of the arguments, the ld. counsel for the assessee requested for the admission of documents in the nature of passport entries of the assessee and bank statement of GMG Associate FZC as additional evidences which go to the root of the matter before the Tribunal which were not presented either before the Assessing Officer or the DRP.

8. The ld. DR did not raise any serious objection.

9. We have given thoughtful consideration to the orders of the authorities below. We have also carefully considered the documentary evidences brought on record. In our considered opinion, if these documents are properly examined, then the factual matrix of the case

will be established to take the decision whether the foreign remittances are income or otherwise. We are of the opinion that for further verification by the Assessing Officer it is necessary to admit the additional evidence.

10. In the interest of justice and fair play, we set aside the matter to the file of the Assessing Officer. The Assessing Officer is directed to examine the additional evidence/documents furnished by the assessee. The Assessing Officer is directed to give reasonable opportunity of being heard to the assessee and then decide the issue afresh as per law.

11. In the result, the appeal of the assessee in ITA No. 2245/DEL/2024 is treated as allowed for statistical purposes.

The order is pronounced in the open court on 06.08.2024.

Sd/-

**[MADHUMITA ROY]
JUDICIAL MEMBER**

Sd/-

**[NAVEEN CHANDRA]
ACCOUNTANT MEMBER**

Dated: 06th August, 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	
Date on which the fair order comes back to the Sr.PS/PS	
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Date of dispatch of the Order	