

आयकर अपीलीय अधिकरण
दिल्ली पीठ "ए", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री नवीन चंद्र, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

आअसं . 1243/दिल्ली/2024 (नि. व. 2017-18)
ITA No.1243/DEL/2024 (A.Y.2017-18)

Ajay Paliwal,
Paliwal Nagar, G.T Road,
Panipat, Haryana 132103
PAN: ACWPP-2890-B

..... अपीलार्थी/ Appellant

बनाम Vs.

Income Tax Officer, Ward-11(1),
C.R Building, ITO, I.P Estate, Delhi 110002

..... प्रतिवादी/ Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Amit Kaushik, Advocate
प्रतिवादीद्वारा/ Respondent by : Shri Kanv Bali, Sr.DR
सुनवाई की तिथि/ Date of hearing : 13/08/2024
घोषणा की तिथि/ Date of pronouncement : 13/08/2024

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 23.02.2024, for Assessment Year 2017-18.

2. The assessee in appeal has primarily raised two issues. In ground no. 1 of appeal the assessee has assailed the jurisdiction of Assessing Officer (AO) and in ground no. 2 to 5 of appeal the assessee has assailed addition of Rs 21,00,000/- u/s. 69A of the Income Tax Act, 1961(hereinafter referred to as 'the Act').

3. Shri Amit Kaushik, appearing on behalf of the assessee in respect of ground no. 1 of appeal submitted, that the assessee is an individual and a senior citizen. He filed his return of income declaring total income of Rs. 48,07,640/-. The case of assessee was selected for complete scrutiny under CASS. The assessment was completed vide order dated 23.12.2019 u/s. 143(3) of the Act by Income Tax Officer (ITO). He referred to CBDT Instruction No.11/2011 dated 31.01.2011 to contend that where income declared (in metro cities) is above Rs. 20 lakhs. The assessment has to be made by the Deputy Commissioner /Assistant Commissioner of Income Tax (DC/ACIT). He contended that since in the instant case the assessee had declared income of more than Rs. 20 lakhs. The ITO could not have assumed jurisdiction to frame assessment according to Board instructions. Only DC/ACIT could have passed the assessment order.

In support of his submissions, he placed reliance on the following decisions:-

- i. J Mitra and Bros Double Storey Market vs. ACIT, Circle 50(1), ITA No. 3643/Del/2023*
- ii. Ketan Tokershi Shah vs. DCIT, Central Circle-2, ITA No. 1107/Mum/2023*
- iii. Ashok Devichand Jain vs. Union of India, [2023] 452 ITR 43 (Bom)*

4. Shri Kanv Bali, representing the department controverting submissions of the assessee on legal ground placed on record excerpts from copy of jurisdiction chart in Delhi w.e.f 15.11.2014. Referring to the jurisdiction table, he submitted that the assessee is a director of M/s Haro Paliwal P. Ltd. since April 1986. The said company is assessed in Ward-11 (1) Delhi. As per the jurisdiction chart, the directors of the company irrespective of the quantum of returned income for respective assessment year are to be assessed in some ward in which the company is

assessed. Hence, the assessee is also assessed in Ward 11(1) Delhi. Thus, the Assessing Officer (ITO) was well within the jurisdiction to complete assessment in the case of assessee.

5. We have considered the submissions made by rival sides on jurisdiction issue before adverting to merits of the case. It is just and proper to first deal with the jurisdiction issue. The assessee placed reliance on Instruction No. 1/2011 (supra) to contend that the ITO had no jurisdiction to pass the assessment order in the case of assessee, as the income returned by the assessee was more than monetary limit specified by the Board for making assessment by ITO. For the sake of completeness relevant extract of the said instruction are reproduced here in below: -

“INSTRUCTION NO. 1/2011 [F. NO. 187/12/2010-IT(A-I)], DATED 31-1-2011

References have been received by the Board from a large number of taxpayers, especially from mofussil areas, that the existing monetary limits for assigning cases to ITOs and DCs/ACs is causing hardship to the taxpayers, as it results in transfer of their cases to a DC/AC who is located in a different station, which increases their cost of compliance. The Board had considered the matter and is of the opinion that the existing limits need to be revised to remove the abovementioned hardship.

An increase in the monetary limits is also considered desirable in view of the increase in the scale of trade and industry since 2001, when the present income limits were introduced. It has therefore been decided to increase the monetary limits as under:

	<i>Income Declared (Mofussil areas)</i>		<i>Income Declare Metro Cities</i>	
	<i>ITOs</i>	<i>ACs/DCs</i>	<i>ITOs</i>	<i>DCs/ACs</i>
<i>Corporate returns</i>	<i>Upto Rs. 20 lacs</i>	<i>Above Rs. 20 lacs</i>	<i>Upto Rs. 30 lacs</i>	<i>Above Rs. 30 lacs</i>
<i>Non-corporate returns</i>	<i>Upto Rs. 15 lacs</i>	<i>Above Rs. 15 lacs</i>	<i>Upto Rs. 20 lacs</i>	<i>Above Rs. 20 lacs</i>

Metro charges for the purpose of above instructions shall be Ahmedabad, Bangalore, Chennai, Delhi, Kolkata, Hyderabad, Mumbai and Pune.

The above instructions are issued in supersession of the earlier instructions and shall be applicable with effect from 1-4-2011."

According to the assessee with reference to the above instructions the assessment in the case of assessee should have been made by DC/ACIT. The department has placed on record a copy of New Jurisdiction Chart of Income Tax in Delhi w.e.f 15.11.2014. A perusal of the same shows that as per the new jurisdiction chart w.e.f 15.11.2014 for corporate charge have been reassigned as under:-

New Jurisdiction of Income-tax in Delhi w.e.f. 15.11.2014

Corporate Charges

- i. For the purpose of jurisdiction of Corporate Charges 'persons or classes of persons' has been defined as 'Persons being companies registered under the Companies Act, 2013 or under the Companies Act, 1956 and having its registered office or having its principal place of business in NCT of Delhi.*
- ii. Cases or classes of cases has been defined as*
 - (a) All cases of persons referred to in corresponding entry (i.e at point (1) above), whose names begin with the alphabet "----*
 - (b) All cases of individuals being managing director or director or manager or secretary in the companies referred to in corresponding persons and classes of persons.*
- iii. Jurisdiction over residual cases in respect of the entire NCT of Delhi including corporate and non corporate cases lies with Pr. CIT/ CIT -3, New Delhi.*
- iv. Companies having Income/Loss upto Rupees Thirty Lacs or as prescribed by the competent authority from time to time, shall be under the jurisdiction of respective wards and Income/Loss exceeding Rupees Thirty Lacs shall be under the jurisdiction of respective circles.*

6. It is an undisputed fact that the assessee is a director of Haro Paliwal P. Ltd. The Id. DR has placed on record a copy of acknowledgment of ITR of the said

company for AY 2017-18. The said company is assessed in Ward-11(1) Delhi. As per the new jurisdiction of Income Tax in Delhi, assessment in the case of directors of the company are to be made in the same Range/Ward where the companies are assessed irrespective of the monetary limit. In the instant case the assessee and the company wherein he is a director both have been assessed under Ward 11(1) Delhi. The monetary limit as specified in Instruction No. 1/2011 (supra) on the Assessing Officer does not apply in the instant case. Therefore, we find no merit in ground no. 1 of appeal. Hence, the same is dismissed.

7. With regard to ground no. 2 to 5 of appeal, the Id. Counsel for the assessee submitted that the cash deposits in the bank are from the withdrawals made by the assessee in preceding months. He has drawn our attention to the bank statement at pages 49 to 51 of the paper book to show that the assessee has withdrawn cash from the bank aggregating to Rs. 26 lakhs on various dates between 12.08.2016 to 05.11.2016. The assessee has thereafter deposited cash of Rs. 21 lakhs on 07.12.2016. Thus, the source of cash deposits stand explained.

8. Per contra, Id. DR vehemently defended the findings of the CIT(A) on merits of the addition.

9. We have heard the submissions made by rival sides on merits of the additions. A perusal of the impugned order shows that similar submissions were made by assessee before the CIT(A). However, the CIT(A) without appreciating the facts on record rejected assessee contentions. A perusal of the bank statement reveal that the assessee has withdrawn cash from his bank account maintained

with ICICI Bank on different dates, the details of withdrawals by assessee are as under:-

S.No	Date	Cash withdrawn	Narration of bank entry
1	12.08.2016	7,00,000/-	CASH: PAID TO B N BHATIA
2	04.10.2016	5,00,000/-	CASH: PAID TO RAJESH
3	05.10.2016	5,00,000/-	CASH: PAID TO RAJESH
4	17.10.2016	5,00,000/-	CASH: PAID TO RAJESH
5	05.11.2016	4,00,000/-	CASH: PAID TO SELF

10. Thereafter in the month December 2016 the cash was deposited by the assessee, the details of cash deposit as per the bank statement are as under:-

S.No	Date	Cash deposit	Narration of bank entry
1	07.12.2016	8,00,000/-	BY CASH-PANIPAT
2	07.12.2016	8,00,000/-	BY CASH
3	07.12.2016	5,00,000/-	BY CASH

11. Keeping in view the proximity of cash withdrawals and cash deposits, the possibility of assessee depositing his own cash which was withdrawn earlier cannot be ruled out. Thus, the assessee deserves the benefit of the same. An examination of the bank statement shows that against withdrawals names of 'Rajesh' and 'B.N Bhatia' are mentioned.

12. The Id. Counsel for the assessee has explained that the aforesaid persons are the employees of M/s Hocage Home Decors P. Ltd., the assessee being director of said company had instructed the aforesaid persons to withdraw cash on his behalf. The assessee has filed an affidavit to this affect. Since, this fact has been brought on record for the first time; we deem it appropriate to restore this issue to the file of

AO for the limited purpose to ascertain the contents of the affidavit dated 08.08.2024 furnished before the Tribunal.

13. In case the contents of the affidavit are found to be correct and the assessee has been able to show that Rajesh and B.N Bhatia were the employees of Hocage Home Decor P Ltd. at relevant point of time, no addition on account of cash deposits u/s. 69A of the Act is warranted. Ground no. 2 to 5 of appeal are thus allowed for statistical purpose, in the terms aforesaid.

14. In ground no. 6 of appeal, the assessee has assailed charging of interest u/s 234B and 234C of the Act. Charging of interest under the aforesaid section is mandatory and consequential; hence, ground no. 6 of appeal is dismissed being devoid of any merit.

15. In the result, appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the open court on Wednesday the 13th day of August, 2024.

Sd/-

(NAVEEN CHANDRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 13/08/2024

NV/-

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI