

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “I”, MUMBAI  
BEFORE SHRI. GAGAN GOYAL, ACCOUNTANT MEMBER  
AND  
SHRI. RAJ KUMAR CHAUHAN, JUDICIAL MEMBER  
ITA NO. 3574/MUM/2024 (A.Y: 2016-17)**

Mr. Devinder Singh  
Flat No. 302, A Wing, Bhagwati  
Imperia, Plot No. 01, Sector 09,  
Ulwe, Navi Mumbai – 410206.  
**PAN: BIEPS5253G**

**(Appellant)**

Vs. Income Tax Officer, Mumbai  
Office of the Income Tax  
Officer, Int. Tax Ward 4(2)(1),  
Room No. 1708, 17<sup>th</sup> Floor, Air  
India Building, Nariman  
Point, Mumbai – 400021.

**(Respondent)**

**Assessee Represented by : Shri. Mandar Vaidya**  
**Department Represented by : Shri. Anil Sant – Addl. CIT**  
**D.R.**  
**Date of conclusion of Hearing : 03.09.2024**  
**Date of Pronouncement : 19.09.2024**

**ORDER**

**PER RAJ KUMAR CHAUHAN (J.M.): -**

1. This appeal is filed by the appellant/assessee against the final assessment order dated 31.05.2024 passed u/s. 147 r.w.s. 144C(3) for A.Y. 2016-17 passed in pursuance of direction given by the DRP dated 28.05.2024 u/s. 144C of the Income Tax Act, 1961 [hereinafter referred to as “*the Act*”].



2. The assessee is in appeal before us and has raised following grounds:

1. *The ITO has considered total value of investments in time deposit Rs. 1,33,95,380 as deemed income being unexplained investment of the assessee u/s 69 of the IT Act, 1961. : Assessee does not hold any Time Deposit during the F.Y. 2015-16 The Assessee is Non Resident seafarer during the F.Y. 2015-16 & his Foreign income is not taxable in India. The Assessee has purchased Residential Property in joint names with spouse during F.Y. 2015-16 which is financed out of loan from LIC Housing Finance Ltd, Contribution from spouse & income earned outside India & remitted in NRE A/c during the F.Y. 2015-16. The assessee has deducted & reemitted applicable TDS on total agreement value on lump sum basis on purchase of House Property during the F.Y. 2015-16.*
2. *The assessee has submitted all the explanation, evidence in response to all the notices issued by ITO & DRP office as apparent on the IT Portal which the ITO has not taken into consideration while issuing the order u/s 147 r.w.s. 144C.*
3. *The ITO has erred in computing Tax liability as per the provisions of section 115BBE of the Income Tax Act'1961 Assessee's Taxable Income for F.Y. 2015-16 is below Basic exemption limit and thus not liable for tax.*
4. *The ITO has initiated penalty proceedings u/s 271AAC of the IT Act, 1961 separately, No Notice has been served by ITO till date. There is no non-disclosure of income & there by no evasion of tax by assessee hence initiation of penalty proceeding is erroneous.*
5. *The ITO has erred in levying interest u/s 234A of the IT Act.1961. Assessee is non-resident seafarer and his total income is below the basic exemption limit. Thus, not liable to file IT Return u/s 139(1) of the IT Act.*
6. *The ITO has erred in levying interest u/s 234B of the IT Act.1961. Assessee is nonresident seafarer and his total income is below the basic exemption limit. Thus, not liable to pay Advance Tax.*
7. *In adequate time provided for responding to show cause notice u/s 142(1) r.w.s. 129 issued by A.O. Show cause notice was issued to assessee on Saturday late night of 16- 03-2024 via email seeking information and supporting documents by Monday 04.35 pmi.e 18-03-2024. The assessee submitted the response to show cause notice on 23-03- 2024.*



*Delay was on account Compilation of various Information & Data which was required to be presented in specified format & the same was time consuming.*

8. *Order of DRP Passed u/s 144C without considering online submission made within stipulated time. The assessee has objected the order by filing e-response on 10.04.2024 within 30days but could not submit the same in physical form to the office of DRP within 30Days due to unavoidable circumstances, however the physical copy same was filed on earliest possible date i.e. 22.04.2024.”*

3. Assessee vide its letter prayed for withdrawal of appeal in ITA No. 3574/Mum/2024 for A.Y.2016-17. For the sake of convenience, we are reproducing the contents of the said Application as under: -

*“The aforementioned appeal is posted before this Hon'ble Bench for 3rd September 2024. Under instructions from the client, we pray for leave to withdraw this appeal. Our Power of Attorney' is submitted herewith. In view of the same, it is prayed that Your Honour may kindly be pleased to grant leave to the Appellant/assessee to withdraw this appeal and oblige.*

4. In view of the application, we have heard the Ld. AR on behalf of the assessee and Ld. DR on behalf of the revenue. The Ld. DR has not raised any objection to the withdrawal of this appeal.

5. We find considerable cogency in the contentions of Assessee as aforesaid. Keeping in view of the facts and circumstances of the case, we accept the request of the assessee for withdrawal of the Appeal and accordingly, we dismiss the Appeal as withdrawn.



6. In the result, appeal filed by the assessee is dismissed as withdrawn.

**Order pronounced in the open court on 19.09.2024**

**Sd/-**  
**(GAGAN GOYAL)**  
**(ACCOUNTANT MEMBER)**

**Sd/-**  
**(RAJ KUMAR CHAUHAN)**  
**(JUDICIAL MEMBER)**

Mumbai / Dated 19.09.2024  
*Karishma J. Pawar, (Stenographer)*

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mumbai**