

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "F": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No. 2778/Del/2022
(Assessment Year: 2013-14)**

Puneet Singh Mehndiratta, 14/4, Ground Floor, West Patel Nagar, New Delhi (Appellant) PAN:AIZPM6096K	Vs. DCIT, Circle-70(1), New Delhi (Respondent)
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Assessee by :	Shri Vishal Kalra, Adv Ms. Sumisha Murgai, CA Shri Kashsh Gupta, CA
Revenue by:	Shri Ravi Kant Choudhary, Sr. DR
Date of Hearing	03/10/2024
Date of pronouncement	10/10/2024

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.1778/Del/2022 for AY 2013-14, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2022-23/1046001421(1) dated 27.09.2022 against the order of assessment passed u/s 143(3) r.w.s. 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 29.02.2016 by the Assessing Officer, DCIT, Circle-70(1), New Delhi (hereinafter referred to as 'ld. AO').

2. Though the assessee has raised several grounds, the only effective issue to be decided in this appeal is with regard to non denial of grant of foreign tax credit of Rs. 98,852/- by the lower authorities.

3. We have heard the rival submissions and perused the material available on record. The assessee is an individual deriving income from salary, income from house property, income from capital gains and other sources. The return of income for AY 2013-14 was filed by the assessee on 28.07.2013 declaring total income of Rs. 41,56,670/-. During the course of scrutiny assessment proceedings, the assessee filed a revised computation of income before the Id AO offering further income which he had earned in USA towards salary income. This additional income was Rs. 37,52,255/-. But the assessee offered Rs. 29,37,294/- in the original return and accordingly came forward to offer the differential sum of Rs. 8,14,961/- in the revised computation of income. The assessee claimed foreign tax credit of Rs. 4,03,420/- in respect of taxes paid in USA for the salary income which was allowed by the AO in the scrutiny assessment. The assessee made a further claim of foreign tax credit of Rs. 98,852/- in the revised computation of income for the differential sum of Rs. 8,14,961/- offered by it in the revised computation. The Id AO however very strangely proceeded to add the salary income earned from HSBC USA by the assessee in sum of Rs. 37,72,946/- in the original return of income difference thereby resulting into double taxation. The Id AO however having taxed the additional income offered by the assessee in the revised computation denied foreign tax credit of Rs. 98,852/- while completing the assessment. This action was upheld by the National Faceless Appeal Centre (NFAC) just by reiterating the observation of the AO.

4. We find that the revised computation filed by the assessee as under:-

A.Y. 2013-2014		
Name : Puneet Singh Mehndiratta	Previous Year : 2012-2013	
Father's Name : Inderjit Singh Mehndiratta	PAN : AIZPM6096K	
Address : No 14/4 Ground Floor West Patel Nagar New Delhi - 110008	Status : Individual	Date of Birth : 01-12-1980

Statement of Income and Taxes				
Particulars	Schedule Reference	Income ought to have been reported	Income actually reported in original tax return	Variance
		Rs.	Rs.	Rs.
Income from Salaries				
<i>Employer1: HSBC Electronic Data Processing India Private Limited</i>				
Salary: as per Form 16 / Certificate		14,69,375	14,69,375	-
Add: Excess HRA		1,69,307	-	1,69,307
<i>Employer2: HSBC USA</i>				
Overseas Income	I	37,52,255	29,37,294	8,14,961
Income chargeable under the head "Salaries"		53,90,937	44,06,669	9,84,268
Income from House Property				
<i>Self occupied property:</i>				
Gross annual value u/s 23(2)(a)		-		
Less: Interest on borrowed capital u/s 24(b)		1,50,000		
Income from self occupied property		-1,50,000		
Add: Loss disallowed in 143(3) Order		1,50,000		
Income chargeable under the head "House Property"		-	(1,50,000)	1,50,000
Income from other sources				
Interest from savings bank account in India		2,599		2,599
Overseas Bank Interest	J			
Income chargeable under the head "other sources"		41	0	41
Gross Total Income		53,93,577	42,56,669	11,36,908
Deductions under chapter VI-A				
<i>Investment u/s 80C, CCC, CCD</i>				
PF contribution		63,885	63,885	
Housing loan repayment		1,27,630	1,27,630	
Life Insurance Premium		29,177	29,177	
Total investment-subject to ceiling u/s 80CCE		1,00,000	1,00,000	
Deduction under section 80TTA		2,599	0	2,599
Total Income		52,90,978	41,56,669	11,34,309
Total income rounded off u/s 288A		52,90,980	41,56,670	11,34,310
Tax on total income				
Add: Education cess		42,519	32,310	10,209
Tax with cess		14,59,813	11,09,311	3,50,502
Relief U/s 89 to 91				
Relief u/s 90 to 91	2	5,02,272	4,03,420	98,852
Net Tax		9,57,541	7,05,891	2,51,650
TDS		2,01,688	2,01,688	-
Balance tax dues		7,55,853	5,04,203	2,51,650
Add: Interest under section 234 B		1,19,671	20,168	99,503
Add: Interest under section 234C		27,964	18,656	9,308
Total tax dues including interest	3	9,03,488	5,43,030	3,60,461
Less: Self Assessment Tax paid in July 2013		5,43,030	5,43,030	-
Balance tax payable		3,60,458	0	3,60,461
Less: Self Assessment Tax paid in March 2016				
On 28 Mar 2016		1,000		1,000
On 31 Mar 2016		-		-
On 30 Mar 2016		62,103		62,103
On 1 April 2016		76,727		76,727
On 20 April 2016		2,95,211		2,95,211
Balance tax payable / (Refund Due)		-74,580	-	-74,580

5. From the aforesaid computation it could be seen that only an additional income of Rs. 8,14,961/- towards salary from HSBC USA was offered in the revised computation during the course of assessment proceedings. A sum of Rs. 29,37,294/- was already offered by the assessee in the original return of income. Hence, the lower authorities ought not to have taxed the very same sum of Rs. 29,37,294/- again in the assessment. In this regard, the action of the Id AO is without any basis and reflects complete non-application of mind. Further, the assessee for the additional income offered in the revised computation had claimed foreign tax credit of Rs. 98,852/- which would be obviously allowable to the assessee. It is not the case of the revenue that the assessee had not paid the tax to the tune of Rs. 98,852/- in USA. Hence, we hold that the assessee would be entitled for foreign tax credit of Rs. 98,852/-. We also direct the Id AO to delete the addition made in the sum of Rs. 29,37,294/- reflecting the double addition as explained supra. Accordingly, the grounds raised by the assessee are allowed.

6. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 10/10/2024.

-Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 10/10/2024
A K Keot

Copy forwarded to
1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi