

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.1990/Del/2024
Assessment Year: 2018-19

ITO, Ward-61(1), New Delhi	Vs.	Sh. Arun Sangal, 24-25, Jain Mandir Market, South Extension-II, New Delhi
PAN: AATPS6762L		
(Appellant)		(Respondent)

Assessee by	Sh. Madhur Agarwal, Advocate
Department by	Mr. Javed Akhtar, CIT(DR)

Date of hearing	14.11.2024
Date of pronouncement	20.11.2024

ORDER

PER SATBEER SINGH GODARA, JM

This Revenue's appeal for assessment year 2018-19 is directed against the Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre, [in short, the "CIT(A)-NFAC"], Delhi's DIN & Order No. ITBA/NFAC/S/250/2023-24/1059814793(1), dated 17.01.2024, involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Heard both the parties. Case file perused. The Revenue pleads following substantive grounds in the instant appeal:

- (i) The Ld. CIT(A) has erred in facts and in law by deleting the addition of Rs.179,59,24,602/- and by ignoring the facts of the case.
- (ii) The Ld. CIT(A) has erred in facts and in law by ignoring the Capital Balance of Rs.181,01,65,090/- in the partnership firm M/s. Radius Township LLP shown in Schedule IF of the ITR for A.Y. 2018-19.
- (iii) The appellant craves leave for permission to modify any of the grounds of appeal/raise additional grounds of appeal at the time of hearing.

3. Both the learned Representatives next invited to the CIT(A)-NFAC's detailed discussion reversing the assessment findings making section 68 unexplained cash credit addition of Rs.179,59,24,602/- as under:

“11.1 I have considered the materials placed before me. The brief facts of the case of the Appellant are that, the Appellant is an Individual and practices the medical profession. The books of accounts of his medical profession are audited year after year. During the assessment proceeding, the AO observed that the Appellant has shown Closing Capital balance in his Proprietary business of Rs.6,20,53,756/- for A.Y.2017-18. As against above, the

Appellant has shown Opening Capital balance of Rs.190,19,78,358/- for A.Y.2018-19. Thus, there is huge difference of amounting to Rs.183,99,24,602/- between the closing capital in A.Y.2017-18 and opening capital in A.Y.2018-19. During the assessment proceeding the Appellant submitted that he is a partner in Limited Liability Partnership firm namely M/s Radius Township LLP. During the year under consideration, for the first time the total Capital Account Balance of Appellant in the Radius Township LLP accumulated over a period of last two years of Rs.185,41,86,543/- as on 1st April, 2018 has been incorporated in the Balance sheet prepared by the Appellant for his medical profession by passing a Journal Entry crediting to his capital account under liability side of the balance sheet and corresponding increase in investment in Radius Township LLP under asset side of the balance sheet. It was submitted that the Appellant has duly disclosed the details of partnership firm, share of profit, capital account in partnership firm etc. in return of income filed by him for earlier years and the nature and source of increase in capital account is duly proved and no addition is called for in his case. However, the AO did not find the submission of the appellant convincing. The AO observed that during the year under consideration, the Appellant has withdrawn only a sum of Rs.4,40,00,000/- from the partnership firm Radius Township LLP, hence, sum to the extent of Rs.4,40,00,000/- is allowed to the assessee. The AO thereby held that the Appellant is unable to explain the source and nature of balance sum of Rs.1,79,59,24,602/- [i.e. Rs.190,19,78,358 – (Rs.6,20,53,756 + Rs.4,40,00,000)] and same was taxed as unexplained cash credit u/s 68 of the Act r.w.s. 115BBE of the Act.

11.2 I have carefully gone through the facts of the case alongwith relevant documentary evidences filed by the Appellant in paper book, which were also duly been filed before the AO during the assessment proceeding. It is an undisputed fact that the Appellant is a Partner in a Limited Liability Firm namely M/s Radius Township LLP (PAN: AATFR 1462J).The Appellant has fixed and current Capital

Account in its Partnership firm Radius Township LLP. The AO accepts the capital account balance in partnership firm Radius Township LLP and same is reproduced on Page 11 of assessment order. The summary of balance in partner's capital account maintained with Radius Township LLP as partner (fixed & current capital) for the year ending 2016, 2017 and 2018 is as under:

Capital in Radius Township LLP			
Particulars	F.Y.2015 - 2016	F.Y. 2016 - 2017	F.Y.2017- 2018
Fixed share capital (A)	1,33,340	1,33,340	1,33,340
Current capital :-	0	102,18,14,448	185,40,53,203
2/3 rd Share of Profit of the year	105,68,14,448	86,52,38,755	-21,453
Withdrawal	-3,50,00,000	-3,30,00,000	-4,40,00,000
Current capital balance (B)	102,18,14,448	185,40,53,203	181,00,31,750
Total capital in LLP (A + B)	102,19,47,788	185,41,86,543	181,01,65,090

As can be evident from above, it is observed that, the Appellant has received a share of profit of Rs.192,20,31,750/- [i.e.Rs.105,68,14,448 + Rs.86,52,38,755 – Rs.21,453] for A.Y.2016-17 to 2018-19 from Partnership firm Radius Township LLP and same is claimed as exempt u/s 10(2A) of the IT Act. The aforesaid information relating to capital, share of profit, exemption claimed u/s 10(2A) of the Act etc. were disclosed by the Appellant in his return of income i.e. ITR Form of relevant assessment years i.e. A.Y.2016-17 to 2018-19 (Paper Book Page No.1314, 19-20 and 25-26).

11.3 I observe that, during the assessment proceeding, the Appellant repeatedly explained the increase in capital account and explained that he has been preparing Profit & Loss A/c and Balance sheet only of his medical profession without including the Capital Balance in Radius Township

LLP. However, the share of profit & the Capital Balance in the Radius Township LLP has been duly disclosed in Appellant's return of income year after year. During the year under consideration, for the first time the total Capital Account Balance of Appellant in the Radius Township LLP accumulated over a period of last two years of Rs.185,41,86,543/- as on 1st April, 2018 has been incorporated in the Balance sheet prepared by the Appellant for his medical profession by passing a Journal Entry crediting to his capital account under liability side of the balance sheet and corresponding increase in investment in Radius Township under asset side of the balance sheet. I observe that the Appellant has filed all the necessary documents which duly explains the transaction under consideration viz

- detailed explanation on increase in Capital A/c balance through its various replies submitted before the AO*
- Audited A/c's of Appellant for F.Y.2015-16, 2016-17 and 2017-18*
- Relevant extract of ITR of Appellant for A.Y.2016-17, 2017-18 and 2018-19*
- Capital A/c of Appellant in books of Radius Township LLP for F.Y.2015-16, 2016-17 and 2017-18*
- Audited Financial Statement of Radius Township LLP for F.Y.2015-16, 2016-17 and 2017-18*
- ITR filed by Radius Township LLP for A.Y.2016-17, 2017-18 and 2018-19*
- Reconciliation of Capital A/c as per Closing Capital as on 31.03.2017 and 31.03.2018*

Thus, the Appellant has filed all details before the AO and explained the increase in Capital A/c balance with relevant supporting documents.

11.4 I also observe that, the Appellant not only explained the increase in capital balance during the year under consideration but also explained the details of income earned by the partnership firm M/s Radius Township LLP. It was explained that, the partnership firm M/s Radius

Township LLP was holding investment in the shares of a listed company M/s Indiabulls Housing Finance Limited. During the F.Y.2016-17 and 2017-18 the firm sold its investment in shares of Indiabulls housing Finance Limited and earned a long term capital gain of Rs.156,65,97,421/- in F.Y.2015-16 and Rs.128,14,38,503/- in F.Y.2016-17. The said long term capital gain was exempt in the hands of LLP under section 10(38) of the IT Act. The profit earned by the firm were then distributed to the partners in their profit-sharing ratio and accordingly the Appellant was credited a sum of Rs.105,68,14,448/- in A.Y.2016-17 and Rs.86,52,38,755/- in A.Y.2017-18 to his capital account in the book of LLP, as his share of profit from LLP. The Appellant filed the copy of Audited Accounts and Return of income of Partnership Firm Radius Township LLP before the AO.

11.5 Nevertheless, the Radius Township LLP has also filed complete details in response to notice as under:

- Copy of Return of income filed for A.Y.2016-17 to 2018-19*
- Audited Financial Statement for F.Y.2015-16 to 2017-18*
- Copy of Capital A/c of Partners for F.Y.2015-16 to 2017-18*
- Bank Account Statements for F.Y.2015-16 to 2017-18*
- Details of Profit on sale of shares for A.Y.2016-17 and 2017-18 alongwith Contract Notes*
- Details of Exempt income earned in A.Y.2016-17 and 2017-18*

Thus, not only the source of increase in capital balance of proprietary balance sheet is proved by the Appellant with documentary evidences but the Appellant has also filed source of source i.e. details of profit earned by partnership firm M/s Radius Township LLP.

11.6 Thus, from the facts of the case on record and perusal of return of income filed by the Appellant for earlier years i.e.A.Y.2016-17 and 2017-18, I observe that the Appellant

has duly disclosed the details of partnership firm, shares of profit, capital A/c balance etc in Radius Township LLP in the return of income filed by him in earlier years. During the year under consideration, the Appellant has merely incorporated the balance in his capital account with Partnership firm Radius Township LLP in his medical profession's balance sheet by passing a journal entry whereby Capital Account in medical profession Balance sheet was increased by the Capital A/c Balance in LLP on the liability side and investment in LLP was disclosed in the Asset side of the medical profession Balance sheet. The entire capital and share of profit with partnership has already been disclosed by the Appellant in his return of income year after year and is already available on record with the AO as part of his return of income. Thus, by no stretch of imagination same can be treated as unexplained cash credit u/s 68 of the Act and addition of Rs.179,59,24,602/- made by the AO is liable to be deleted."

4. It is in this factual backdrop that the learned CIT(DR) vehemently argues reiterating the assessment findings that the Assessing Officer has rightly treated the impugned sum in assessee's hands as unexplained cash credit under section 68 of the Act.

5. The assessee, on the other hand, has filed a detailed paper-book running into 213 pages, inter alia, comprising of all the relevant details individual as well as that of the LLP, namely, M/s. Radius Township that the impugned sum formed part of the profits derived by the later followed by due assessment thereof in the LLPs

hands which finally got reflected in the taxpayer's books in the relevant years.

6. Mr. Madhur Agarwal refers to assessee's as well as LLP's income tax returns, acknowledgements and audited books to this effect and clarify that the impugned sum was declared in the balance sheet in individual capacity in assessment year 2018-19 only. He refers to the assessee's return for preceding assessment year 2017-18 along with schedule IF, wherein he had duly declared himself as a partner in LLP having share in the latter's profits amounting to Rs.86,52,38,755/-.

7. Mr. Agarwal then takes us to pages 13 and 14 for assessment year 2016-17 enclosing the assessee's return and identical schedule that his share in LLP's profits was Rs.105,68,14,448/-. All these clinching facts have gone unrebutted from the Revenue's side that the impugned sum added in assessee's hands as unexplained cash credits in fact represents his share in profits of M/s. Radius Township LLP, who in turns, has been all along assessed for the same. It goes without saying that such an income assessed in a firm's hand is exempt in the hands of its partners as per section 10(2A) of the Act.

8. We afforded ample opportunity to the department wherein it has failed to rebut all these clinching facts duly taken note of by the CIT(A)-NFAC in the lower appellate findings under challenge. We thus find no merit in the Revenue's instant appeal and the same stands declined.

9. This Revenue's appeal is dismissed.

Order pronounced in the open court on 20th November, 2024

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 20th November, 2024.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi