

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

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. M. Balaganesh, Accountant Member**

ITA No. 3899/Del/2023 : Asstt. Year : 2021-22

DCIT, Circle-7(1), New Delhi-110002	Vs	Mohit Gujral, 149-D, Okhla Industrial Estate, S.O. Tehkhand, South East Delhi, New Delhi-110020
(APPELLANT)		(RESPONDENT)
PAN No. AAIPG2833M		

**Assessee by : Sh. Rajiv Khandelwal, CA
Revenue by : Ms. Baljeet Kaur, CIT-DR**

Date of Hearing: 05.12.2024	Date of Pronouncement: 12.12.2024
------------------------------------	--

ORDER

Per Satbeer Singh Godara, Judicial Member:

This Revenue's appeal for Assessment Year 2021-22, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2023-24/1057565161(1) dated 31.10.2023 in proceedings u/s 143(3) of the Income Tax Act, 1961 (in short "The Act").

2. Heard both the parties at length. Case file perused.
3. The Revenue's raises the following substantive grounds in the instant appeal:

"1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in allowing the additional evidences submitted u/s 46A by the assessee whereas sufficient opportunities were given by the AO during the assessment proceedings to submit the same and the assessee failed to do so?"

2. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in accepting the revised computation of income filed by the assessee during the appellate proceedings ignoring the provisions of Section 119(2)(b) of the Act?*

3. *Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in accepting the additional ground taken by assessee regarding the correction in Income from Other Sources on account of Rs.3,04,55,000/- of interest income being inherently exempt in nature and Rs.1,60,65,484/- not taxable in his hands, whereas the assessee had opportunity to claim the same in the Original ITR as well as Revised ITR and he failed to do so?*

4. *Whether on the facts and circumstances of the case and in law, the Ld. CIT (A), Delhi has erred in accepting the asset under consideration as a Long Term Capital Asset and consequently treating the Capital Gain as 'Long Term Capital Gain' without verifying the ownership of the capital assets under consideration?*

5. *Whether on the facts and circumstances of the case and in law, the Ld. CIT (A), Delhi has erred in accepting the deployment of funds for purchasing the capital assets under consideration as stated to be made by the assessee without any enquiry.*

6. *Whether on the facts and circumstances of the case the CIT(A) erred in law and fact by accepting the transactions claimed by the assessee without verifying the actual flow of fund and transfer of ownership in the name of the assessee and subsequently in the name of the transferee.*

7. *Whether on the facts & circumstances of the case the CIT(A) erred in accepting the entries in the ledger of DLF as concluding evidence regarding ownership in place of registered sale deed.*

8. *Whether on the facts & circumstances of the case the CIT(A) erred in giving a new definition to transfer in contrast to what has been envisaged in the Income Tax Act and Transfer of Property Act."*

4. Learned CIT-DR, Ms. Baljeet Kaur vehemently argues during the course of hearing that the Assessing Officer's corresponding assessment order dated 24.12.2022 herein had rightly added short term capital gains amounting to Rs.101,99,13,588/- and other heads in assessee's hands which have been wrongly deleted in the CIT(A)'s lower appellate discussion. Her case accordingly is that we ought to revive the

assessment findings to this effect or the matter be restored back to the Assessing Officer for fresh round of assessment.

6. We note in this factual backdrop that the Revenue's foregoing substantive ground do not deserve to be admitted even once the CIT(A)/NFAC's herein; as the case may be, has granted relief to the assessee on account of the corresponding remand report coming from the assessment unit, dated 26.09.2023 in assessee's favour which forms part of the paper book at page 131 to 134 before us. The question as to whether the Revenue could be held to be having a valid locus for instituting an appeal against the findings based on such a favourable remand report, has already been decided in assessee's favour in Smt. B. Jayalakshmi vs. ACIT (2018) 96 taxmann.com 486 (Mad.) and CIT vs. D. M. Purnesh (2020) 426 ITR 169 (Kar.) We thus see no merit in the Revenue's instant appeal in very terms. Rejected accordingly.

7. This Revenue's appeal is dismissed in above terms.
Order Pronounced in the Open Court on 12/12/2024.

Sd/-

(M. Balaganesh)
Accountant Member

Dated: 12/12/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Satbeer Singh Godara)
Judicial Member

ASSISTANT REGISTRAR