

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "D", MUMBAI

Before Justice (Retd.) C V Bhadang, Hon'ble President &
Shri B R Baskaran, Hon'ble Accountant Member

ITA 3864/Mum/2023 for Assessment Year 2021-22

Ravi Developments, 76, Laxmi Palace, Mathuradas Road, Kandivali (W) Mumbai 400 067. PAN AAAGR2516G	Vs.	DCIT-Central Circle-1, Thane
(Appellant)		(Respondent)

Appellant By : Shri Naresh Jain
Respondent By : Shri Krishna Kumar (Sr. DR)

Date of Hearing : 06.12.2024	Date of Pronouncement : 06.12.2024
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ORDER

Per Justice (Retd.) C V Bhadang :

This appeal by the assessee was dismissed by order dated 26.03.2024 in ITA No.3864/Mum/2023 for A.Y. 2021 – 2022 for non-compliance of the requirements of section 249(4)(a) of the Income Tax Act, 1961 ('Act' for short). A perusal of the said order would indicate that this Tribunal had confirmed total addition of ₹69,47,14,056/- made by the Assessing Officer vide order dated 30.05.2022.

2. The appellant filed MA No.243/Mum/2024 for rectification of the said order pointing out that, in fact the entire amount of the tax on the income returned was paid and only part of the interest amount of ₹1,40,58,269/- was unpaid when the appeal was filed before the CIT(A). The appellant has placed reliance on the

decision of Bombay High Court in the case of CIT vs. Manoj Kumar Beriwal (2009) 316 ITR 218, in order to submit that 'tax', for the purpose of section 249(4) does not include interest. Having regard to the decision of the jurisdictional High Court, MA 243/Mum/2024 came to be allowed by order of the even date and the appeal has been restored to file.

3. We have taken up the appeal for hearing and disposal by consent of parties. Upon hearing the learned counsel for the parties, we find that for a similar reason the appeal also deserves to be partly allowed as the CIT(A) had not considered the impugned addition on merits. The CIT(A) had also dismissed the appeal u/s. 249(4)(a) for non-payment of the tax on the returned income. Once, it is found that the tax amount on the returned income was paid [excluding part of the interest], the appeal before the CIT(A) deserves to be restored. In that view of the matter, the present appeal is partly allowed. The appeal filed by the assessee is restored to the file of the First Appellate Authority for disposal according to law.

4. Needless to mention that we have not examined the merits of the impugned addition. The appeal is disposed of in the aforesaid terms.

Order pronounced in the open court on 6th December, 2024

Sd/-
[B R Baskaran]
ACCOUNTANT MEMBER

Mumbai, Dated : 6th December, 2024
SA

Sd/-
[Justice (Retd.) C V Bhadang]
PRESIDENT

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The PCIT, Mumbai.
4. The CIT
5. The DR, 'D' Bench, ITAT, Mumbai

BY ORDER

//True Copy//

(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai