

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI

BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER AND
DR. MITHA LAL MEENA, ACCOUNTANT MEMBER

ITA No.2811/Del/2022
Assessment Year: 2014-15

Neetu Midha, 1369, 3 rd Floor, Dr. Mukherji Nagarm, North West, New Delhi, PIN: 1100 09 PAN No. DGZPM7291B	Vs.	DCIT/ACIT, Central Noida, Noida (Gautam Budh Nagar), {PIN: 201 301
(APPELLANT)		(RESPONDENT)

Appellant by	Shri Shantanu Kanunga, Adv.
Respondent by	Ms. Suman Malik, CIT DR

Date of hearing:	15/01/2025
Date of Pronouncement:	21/03/2025

ORDER

Per Dr. Mitha Lal Meena, A.M.:

This appeal is directed by the assessee against the order dated 31.10.2022 passed by the Commissioner of Income-Tax (Appeal)-24, New Delhi [hereinafter referred to as "CIT(A)"] and arises out of the assessment order dated 27.02.2021 passed under Section 132 of the Income Tax Act 1961 [hereinafter referred as 'the Act']. [hereinafter referred to as "A.O" pertaining to assessment year 2014-15.

2. The grounds of appeal taken by the assessee are as follows:
 1. That the order is against the fact and law of the case.
 2. That the appellant has not provided proper opportunity of being heard which is bad in law as against the principal of natural law of justice.
 3. That neither the A/A nor the Appellant authority at any stage replied the point raised by the A/R, whether the search was conducted legally and procedure as provided u/s 132 has followed or not ?
 4. That A/A erred in making the addition on account of notional Rent whereas the same is being used by the parents of the assessee and the Appellant Authority further erred in confirming the same by ignoring the moral, legal & humanitarian responsibility of the children to provide shelter to the parents in their old age
 5. That the A/A framed the assessment arbitrary, illegal which is bad in law as considering the loose paper as basis of addition without giving credit to the rental income earned and accumulated by the wife of the assessee and the appellant authority further erred in accepting the same.
 6. That the A/A erred in not considering the rental income of the wife of the assessee for previous years. And appellant authority further erred in accepting the same partly Without asking for any further question in this regard whereas the rent is being received from the students of various professional and technical courses like U.P.S.C. etc. who comes Delhi to do study and reside as casual tenant therefore no regular agreement is being executed
 7. That facts of the present case is altogether different as the case discussed and citation quoted by the by the A/A as well as by the Appellant Authority
 8. That the A/A frame the assessment as the judge of his own and contradict contention, where ever he want taxed the rent as notional income and wherever he wants rejected the rental income Appellant

Authority further erred accepting the same which is against the law of jurisprudence

9. That the Appellant craves to add/amend any grounds of appeal on before or at the time of hearing

3. Ground 3 is not pressed by the assessee, hence dismissed as not pressed.

4. In ground no. 6 the assessee challenged that the CIT(A) erred in not considering the rental income of the wife of the assessee for previous years and restricting the addition to Rs. 3.26 Lac.

4.1 Having heard both the sides and perusal of record we find that Ld. CIT (A) has partly accepted the rental income without rebutting the assessee by way of asking any further question in this regard whereas the assessee claimed to have received rent from the students tenants of various professional and technical courses like U.P.S.C. etc. who comes Delhi to do study and reside as casual tenant where no regular agreement is being executed. The Ld. CIT (A) decision regarding the addition on account of unexplained investment in house property u/s 69 of the Act is being restricted at Rs 3.26 lakhs (8 - 4.74) and the remaining addition of Rs 4,74 lakhs is deleted ignoring the explanation of the assessee without rebuttal is not justified. In our view, the rental income claimed by the assessee is on regular basis unless it is disproved by the department with corroborative

material evidence on record. Further the disputed amount of Rs. 3.26 Lac sustained by the CIT (A) is otherwise covered out of Stridhan amount to the extent of Rs 2,50,000/- is recognized by the Govt notification and balance 76,000/- out of personal savings.

4.2 Meaning thereby that the source of disputed amount of Rs. 3.26 lacs sustained by the Ld. CIT (A) stands explained and accordingly, it is deleted. Thus, the ground no. 6 of the appeal is allowed.

5. In ground No. 8 assessee objected to sustaining the notional income of Rs. 39,000/-

5.1 We find that the Ld. CIT (A) sustained the addition made by the AO by framing the assessment as the judge of his own while giving contradictory finding ignoring the contention of the assessee. From the record, it is evident that the AO and the Ld. CIT(A) has adjudicated at their sweet will by making and sustaining the addition where ever they want taxed the rent as notional income and wherever they wanted to reject the rental income shown by the Appellant assessee though partly accepting the same which is certainly against the law of jurisprudence and settled principles of common man prudence. Such contradictory findings given by lower authorities in respect of rental income and notional rental income is unwarranted and against the spirit of law.

5.2 In view of that matter, we hold that the order of the Ld. CIT(A) is perverse to the facts on record and as such the addition of notion income amounting to Rs. 39,000/- is deleted. Thus, Ground No. 8 is allowed.

6. The Other grounds are general in nature, need no adjudication.

7. In the result, appeal is allowed.

Order pronounced on 21/03 /2025 in accordance with the Rule 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(VIKAS AWASTHY)
JUDICIAL MEMBER

Sd/-
(DR. MITHA LAL MEENA)
ACCOUNTANT MEMBER

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Dated: 21.03.2025

Copy forwarded to:

1.Appellant

2.Respondent

3.CIT

4.CIT(Appeals)

5.DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI