

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "D" AT NEW DELHI**

**BEFORE SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER &
SHRI SUDHIR KUMAR, JUDICIAL MEMBER**

ITA Nos. 849, 2241, 2242 & 2243/Del/2024

Asstt. Yrs: 2013-14, 2014-15, 2015-16 & 2016-17

<p>Sanjeeta Chatterjee, India Address: House No. 73, Jyoti Kiran Society, Sector-32, Pie- 1, Greater Noida-201210(U.P.)</p> <p>Dubai Address: Apartment 1206, Golden Mile Building 1, Dubai, Palm Jemeirah, Dubai- 500001, UAE</p>	v.	<p>DCIT, International Taxation, Noida Gautam Budh Nagar- 201301, U.P.</p>
स्थायी लेखासं./जीआइआरसं./PAN/GIR No: AOZPC 6048 P		
Appellant	..	Respondent

Appellant by :	Shri Ashok Kumar, Adv.
Respondent by :	Ms. Ambika Aggarwal, Sr. DR

Date of Hearing	03.04.2025
Date of Pronouncement	03.04.2025

ORDER

PER BENCH:

These four appeals filed by the assessee in ITA nos. 849, 2241, 2242 & 2243/Del/2024 for assessment year(s): 2013-14 to 2016-17, respectively, have

arisen against separate appellate orders passed by the learned CIT(A), Noida-2 (vide DIN & Order No. ITBA/APL/S/250/2023-24/1059150619(1) dated 28.12.2023 for A.Y. 2013-14; DIN & Order No. ITBA/APL/S/250/2023-24/1063472186(1) dated 27.03.2024 for A.Y. 2014-15; DIN & Order No. ITBA/APL/S/250/2023-24/1063472626(1) dated 27.03.2024 for A.Y. 2015-16; & DIN & Order No. ITBA/APL/S/250/2023-24/1063473233(1) dated 27.03.2024 for A.Y. 2016-17), in proceedings u/s 143(3) read with section 144C of the Income-tax Act, 1961 (hereinafter referred to as the "Act"). All these four appeals pertaining to the same assessee and involving identical issue, excepting variation in figures, were heard together and are being disposed of by this common order. For the sake of convenience, appeal in ITA no. 849/Del/2024 for A.Y. 2013-14 is made the lead case and our decision therein shall follow mutatis mutandis in appeals for other assessment years as well.

2. Grounds of appeal raised by the assessee in ITA no. 849/Del/2024 for A.Y. 2013-14 reads as under:

"1. The learned Assessing Officer erred in making addition of sum of Rs. 1,28,47,999/- being the amount deposited in the NRE account, by way of unexplained income under section 69A of the Income Tax Act, on the basis of report from the Investigation wing without considering the fact that the appellant has no income accrued or arise in India and the amount deposited in the NRE account received through banking channel.

2. The objection/ reply filed to the Draft order not considered by the learned AO in his final order and added the alleged sum without any inquiry or verification and based on suspicion only.

3. The AO also disregarded several case laws cited before him.

4. In the facts and circumstances of the case and in law, the learned CIT[A] erred in confirming all the additions and dismissed all the grounds and without obtaining remand report u/r 46A

5. The Ld. AO erred in charging interest u/s. 234B and 234C of the Act

6. The Ld. AO erred in initiating penalty proceedings under section 271(1)(c).”

3. Facts of the case, in brief, are that the information was received by the AO from the investigation wing that an amount of Rs. 1,31,99,368/- was credited in the assessee's Bank account maintained with HSBC Bank Limited ,NRE Account 052582665006 during the financial year 2012-13 . The AO could not verify the sources of amount credited from the investigation conducted and records available. The AO invoked provisions of Section 147 to reopen the concluded assessment after obtaining approval from Competent Authorities , and notice u/s 148 dated 30.10.2019 was issued to the assessee by the AO. Statutory notices u/s 142(1) and SCN's were also issued by the AO to the assessee during the course of reassessment proceedings. The assessee did not file any return of income in pursuance of notice issued u/s 148. The assessee has also not filed originally any return of income u/s 139. In response to the SCN's , the assessee submitted that an amount of Rs. 1,28,47,999/- was credited in her HSBC NRE A/c No.

052582665006 during the year under consideration and the same was a friendly interest free loan and confirmation in plain paper was submitted. The AO observed that the assessee could not prove genuinity of the confirmation nor credit worthiness of lender could be proved by the assessee, which led to the additions being made by the AO to the tune of Rs. 1,28,47,999/- being unexplained money u/s 69A of the Act which was brought to tax by the AO as per rates provided u/s 115BBE. The assessee did not file any objection before Id. DRP against draft assessment order, which led to passing of the final assessment order u/s 143(3) read with Section 144C(3)(a) by the AO.

4. The assessee being aggrieved filed first appeal before Id. CIT(A), and submitted that the assessee being an Individual, NRI (Non Resident Indian), living in Dubai since December 1997. The assessee submitted that she had no taxable income in India, and as such she did not file her return of income in India. The assessee submitted that she was working in Dubai in a travel agency as an employee. Before leaving for Dubai, the assessee submitted that she was living with her parents at C137, NTPC, Vidyut Nagar, Gautam Budh Nagar 201008, Uttar Pradesh, and her PAN Card was issued on that address only. In the year 1997 she shifted her base to Dubai. In the year 2011 his father, Mr. S K Chatterjee got retired and shifted his residence to House No. 73, Jyoti Kiran Society, Sector 32,

Pie -1, Greater Noida-201210. The assessee submitted that the investigation wing conducted an enquiry, and she submitted her bank statement with details and consent letter from Mr. Sanjay Shailesh Parikh, close family friend who granted loan to the assessee. The AO sent notices at the old addresses which were not received. Notice u/s 142(1) dated 09.03.2021 was received by father of the assessee on being redirected from the old address, and he replied before the AO that she is living in Dubai and she is not having any taxable income in India. He also enclosed bank statements of the assessee in his reply before the AO. In further reply before the AO, her salary certificate was also enclosed, and it was reiterated that she has no income accrued or arisen in India, she is an NRI since 1997, and the money deposited in HSBC account was received through proper banking channel as a friendly loan from a family friend and attached copy of affidavit duly signed by Shri Sanjay Shailesh Parekh, who is also NRI settled in Dubai. The assessee claimed that affidavit of Mr. Sanjay Shailesh Parekh along with his salary certificate was filed before the AO but the same was not acknowledged. The AO passed the re-assessment order without application of mind. The assessee reiterated her submissions before Id. CIT(A) and also submitted that Mr. Sanjay Shailesh Parekh is Golden Visa holder in UAE. The confirmation loan status from the assessee and acknowledgment from Mr. Sanjay Shailesh Parekh was provided. She also submitted copy of passport to substantiate that she stayed in India for less than

182 days. The learned CIT(A) observed that the assessee has not submitted the bank statement of Mr. Sanjay Shailesh Parekh. Thus, ld. CIT(A) doubted about the creditworthiness of Mr. Sanjat Shailesh Parekh who remitted the amount to the assessee's bank account as well genuineness of the transaction. The appeal stood dismissed by ld. CIT(A) vide impugned appellate order dated 28.12.2023 ,and ld. CIT(A) affirmed the action of the AO.

5. Still aggrieved ,the assessee has now filed an before this Tribunal.

5.1 Learned counsel for the assessee submitted before us that before the authorities below the assessee had submitted documents pertaining to the identity, source and credit worthiness of the lender i.e. Sh. Sanjay Shailesh Parekh. However, the Ld. CIT (Appeals) has neither considered nor rejected the documents of the assessee and dismissed the assessee's appeal solely on the ground of non-submission of the bank statement of the lender i.e. Sh. Sanjay Shailesh Parekh. The bank statement of the lender i.e. Sh. Sanjay Shailesh Parekh being a private document and beyond the access of the assessee could not be produced. Learned counsel submitted that now the assessee has filed application before the Tribunal for admission of additional documents in the form of bank statement of Sh. Sanjay Shailesh Parekh, advice to the and remittance slips of exchange which could not be submitted earlier due to third party documents not in possession of the assessee,

but relevant to the case. The said documents were not provided by Shri Sanjay Shailesh Parekh during the assessment and first appeal proceedings. He submitted that the documents reflect that the lender i.e. Sh. Sanjay Shailesh Parekh was having sufficient balance to extend personal loan to the assessee and amount remitted was also withdrawn from his bank account. Learned counsel for the assessee also submitted that other details such as bank statement of the assessee, the passport details of the assessee; visa details of the person who remitted the money were already submitted before the authorities below. Now at this stage bank statements of the person who remitted the money which were called for have also been submitted.

5.2 Learned Sr. DR Ms., Ambika Aggarwal, submitted that the assessee could not produce the details before the authorities below as were called by the AO as well as by the learned CIT(A) and that additions have rightly been made. Assessee is now filing at this stage additional evidences. Both the parties , however, fairly submitted that the matter can go back to the file of AO for de novo assessment.

6. After hearing both the parties , perusing the entire material on record and in the interest of justice , we admit the additional evidences filed by the assessee as the same goes to the root of the matter, and remit the matter back to the AO for de novo re-assessment after considering the entire material placed on record by the

assessee. Thus, we set aside the orders passed by the AO as well ld. CIT(A), and direct the AO to frame de novo re-assessment on merits in accordance with law. Needless to say that the AO will afford proper opportunity of hearing to the assessee and will admit all the evidence filed by the assessee in her defense. Assessee is also directed to cooperate in the proceedings before the AO and submit all the relevant details/evidences called for by the AO in de novo re-assessment proceedings. Thus, the appeal of the assessee is allowed for statistical purposes. We clarify that we have not commented on the merits of the issues arising in the appeal and all the contentions are left open. We order accordingly.

7. In the result, appeal in ITA no. 849/Del/2024 for assessment year 2013-14 is allowed for statistical purposes.

8. In rest of the appeals in ITA Nos. 2241, 2242 & 2243/Del/2024 for A.Y. 2014-15 to 2016-17, similar additions on account of unexplained credits in assessee's NRE A/c were made by the AO u/s 69A read with Section 115BBE of the Act, which stood upheld in appeal by the learned CIT(A). Admittedly, facts of the case in A.Y. 2014-15 to 2016-17 are identical to the facts in A.Y. 2013-14, except that the amounts are varying. No distinction in facts has been pointed out by the Revenue. Therefore, for the same reasons given by us in assessee's appeal for A.Y. 2013-14, our decision for assessment year 2013-14 shall apply mutatis

mutandis for A.Yrs. 2014-15 to 2016-17, we set aside the orders of authorities below for assessment years 2014-15 to 2016-17, and remit the matter back to the file of AO for de novo re-assessment on merits in accordance with law.

8. Resultantly, assessee's appeals in ITA nos. 849, 2241, 2242 & 2243/Del/2024 for A.Yrs. 2013-14 to 2016-17 stand allowed for statistical purposes in above terms.

Order orally pronounced in the open court on 03.04.2025 in the presence of both the parties.

Sd/-

(SUDHIR KUMAR)
JUDICIAL MEMBER

Sd/-

(RAMIT KOCHAR)
ACCOUNTANT MEMBER

Dated :07.04.2025.

mpv

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, New Delhi