

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G": NEW DELHI
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No. 2771/Del/2023
(Assessment Year: 2019-20)**

Sher Sngh, 81, Aji Julapur, Nurwala, Panipat 132103	Vs.	Income Tax Officer, Ward-1, Panipat
(Appellant)		(Respondent)
PAN:HXGPS8392D		

Assessee by :	Shri Somil Agarwal, Adv Shri Deepsh Garg, Adv
Revenue by:	Ms. Jaya Chaudhary, CIT (DR)
Date of Hearing	03/04/2025
Date of pronouncement	03/04/2025

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.2771/Del/2023 for AY 2019-20, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1055251477(1) dated 18.08.2023 against the order of assessment passed u/s 144 r.w.s. 144B of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 26.09.2021 by the Assessing Officer, NFAC, Delhi (hereinafter referred to as 'Id. AO').

2. Though the assessee has raised several grounds of appeal before us, the only effective issue to be decided in this appeal is with regard to non-denial of exemption under section 10(37) of the Act claimed by the assessee with regard to enhanced compensation. The assessee had also further raised an additional ground stating that additional evidences submitted by him before the learned CITA was not admitted and those evidences would be crucial for the purpose of adjudication of the dispute.

3. We have heard the rival submissions and perused the materials available on record. The assessee is an individual and had filed his return of income for the Assessment Year 2019-20 declaring total income of Rs 22,19,530/-. As per the income tax return, the assessee source of income include interest income from bank deposits and interest income received from land acquisition officer, Urban Estate, Rohtak. The assessee claimed a sum of Rs 10,04,99,719/- as exempt income under section 10(37) of the Act. No documents were produced by the assessee during the course of assessment proceedings, which led to the completion of assessment under section 144 of the Act on 26-09-2021. In the said ex parte assessment, the claim of exemption under section 10(37) of the Act made by the assessee was denied and a sum of Rs 10,04,99,719/- was brought to tax under the head 'capital gains'.

4. Further a sum of Rs 7,28,18,433/- was received as interest income from land acquisition officer, Urban Estate, Rohtak and TDS thereon was claimed as credit. The Learned AO observed that the said interest income on enhanced compensation would be taxable under section 56(2)(viii) of the Act and in view of provisions of section 57(iv) of the Act, 50% of such sum would be allowed as deduction and remaining 50% of Rs 3,64,09,216/- was brought to tax under the head 'income from other sources'.

5. Before the Learned CIT(A), the assessee furnished additional evidences in terms of Rule 46A of the Income Tax Rules by furnishing the requisite documents and details in connection with the claim of exemption under Section 10(37) of the Act and for non-taxability of the interest income on enhanced compensation under income from other sources. The Learned CIT(A), though sought for a remand report from the Learned AO by giving several opportunities to the Learned AO, no remand report was furnished by the Learned AO. Thereafter, the Learned CIT(A) issued show-cause notice to the assessee as to why the additional evidences filed by him need to be admitted. In response thereto, the assessee filed a detailed submission in support of admission of additional evidences. The Learned CIT(A), however, observed that

the reasons adduced by the assessee for admissibility of fresh evidence in appellate proceedings were neither adequate nor substantiated and the same is also not covered by any of the limbs of Rule 46A(1) of the Income Tax Rules. The Learned CIT(A) also noted that even the affidavit dated 14-08-2023 filed by the assessee, praying for admission of additional evidences would not come to the rescue of the assessee. Accordingly, the Learned CIT(A) refused to admit the additional evidences furnished by the assessee. Consequentially, he simply upheld the action of the Learned AO in making the additions. The Learned CIT(A) however directed the Learned AO to remove the aspect of double addition made in respect of interest income on enhanced compensation being already included in the total sum of Rs 10,04,99,718/-, if found to be correct. Aggrieved, the assessee is in appeal before us.

6. Admittedly, the assessment was framed *ex parte* under Section 144 of the Act by the Learned AO. Hence, the assessee was forced to submit additional evidences in terms of Rule 46A(1) of the Income Tax Rules before the Learned CITA by furnishing the requisite documents in support of the Grounds of Appeal raised before Learned CIT(A). These additional evidences were not even sought to be admitted by the Learned CIT(A). Accordingly, it is crystal clear that the additions have been made by the Learned AO and confirmed by the Learned CITA without going through the basic primary documents that are relevant for its adjudication. Hence, in the interest of justice and fair play, we deem it fit and appropriate to restore this appeal to the file of Learned AO for *de novo* adjudication in accordance with law. The assessee is at liberty to furnish fresh evidences, if any, in support of his contentions. All the documents and supporting evidences furnished by the assessee are to be gone through and the Learned AO is directed to pass a speaking order in the light of various decisions of Hon'ble High Courts and decision of Hon'ble Supreme Court on the impugned issue. With these directions, the original grounds and the additional ground raised by the assessee are allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 03/04/2025.

-Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

-Sd/-
(M BALAGANESH)
ACCOUNTANT MEMBER

Dated: 03/04/2025
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi