

IN THE INCOME TAX APPELLATE TRIBUNAL “SMC” “B” BENCH: KOLKATA
[Before Shri Mahavir Singh, JM]

I.T.A No.2619/Kol/2013
Assessment Year: 2009-10

Ricky Chandra
(PAN: ADOPC8548E)
(Appellant)

Vs. Income-tax Officer, Wd-29(4), Kolkata

(Respondent)

Date of hearing: 07.12.2015
Date of pronouncement: 11.12.2015

For the Appellant: Shri Tapan Kr. Chakraborty, Advocate
For the Respondent: Shri Rajendra Prasad, JCIT, Sr. DR

ORDER

This appeal by assessee is arising out of order of CIT(A)-XVI, Kolkata vide Appeal No. 73/CIT(A)-XVI/Wd-29(4)/11-12 dated 28.10.2013. Assessment was framed by ITO, Wd-29(4), Kolkata u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as “the Act”) for Assessment Year 2009-10 vide his order dated 13.12.2011.

2. In this appeal of assessee, the assessee has raised various grounds but during the course of hearing Ld. Counsel for the assessee clearly admitted that only 50% of the interest income should be assessed in the hands of the assessee being one of the legal heirs.

3. I have heard rival submissions and gone through facts and circumstances of the case. I find that the Ombudsman of Income-tax Department, Kolkata vide its order No. I.T.Ombudsman/2007-08/26 dated 31.03.2008 has clearly admitted that there are two legal heirs of late Dr Dhruva Chandra, the present assessee along with his mother and both of them have been claiming refund all along. The following is the observation of Ombudsman of Income-tax Department:

“Dr. Dhruva Chandra, who earlier worked as a Scientist in Canada, disclosed in his return income mainly of interest from his NRI Account. Dr. Chandra who personally signed his return for the assessment year 1999-2000 claiming a refund of Rs.1,22,665/- suddenly disappeared in February 2000 and has been missing since then. Neither his family nor the police have been able to trace him out till now. Ricky Chandra, his son and only child has been filing his returns thereafter from A.Yrs. 2001-02 to 2003-04 claiming refund for all the years jointly with his mother. The refunds although determined on file have not been issued till date.”

4. In view of the above, Ld. Counsel for the assessee stated that out of the total interest income of Rs.6,68,513/-, only 50% is to be taken in the case of the assessee and balance 50% should be assessed in the hands of assessee's mother, who is also legal heir of Dr. Dhruba Chandra. Ld. Sr. DR has not objected to the proposal of the assessee and also not controverted the fact that Dr. Dhruba Chandra was having two legal heirs, his wife and his son the present assessee. In term of the above, I set aside this issue to the file of AO and direct him to assess only 50% income pertaining to Dr. Dhruba Chandra in the hands of the assessee and balance 50% can be assessed in the hands of Dr. Dhruba Chandra's wife, who is one of the legal heirs, according to law. In term of the above, this appeal of assessee is allowed partly.

5. In the result, appeal of assessee is allowed partly.

6. Order is pronounced in the open court on 11.12.2015.

Sd/-
(Mahavir Singh)
Judicial Member

Dated : 11th December, 2015

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. APPELLANT – Shri Ricky Chandra, 68A, Peary Mohan Roy Road, Kolkata-700 027.
2. Respondent – ITO, Wd-29(4), Kolkata.
3. The CIT(A), Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Asstt. Registrar.