

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E' : NEW DELHI

BEFORE SHRI G.D. AGRAWAL, VICE PRESIDENT AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No.1591/Del/2013
Assessment Year : 2008-09

Deputy Commissioner of
Income Tax,
Central Circle-4,
New Delhi.

(Appellant)

Vs. Shri Moni Kumar Subba,
Subba Farm House,
118, Village Sultanpur,
Mehrauli-Gurgaon Road,
New Delhi.
PAN : AASPS1484J.
(Respondent)

Appellant by : Shri P. Dam Kanunjna, Senior DR.
Respondent by : Shri R.S. Singhvi, CA.

Date of hearing : 04.04.2016
Date of pronouncement : 05.04.2016

ORDER

PER G.D. AGRAWAL, VP :-

This appeal by the Revenue for the assessment year 2008-09 is directed against the order of learned CIT(A)-XXXIII, New Delhi dated 21st December, 2012.

2. The Revenue has raised various grounds in this appeal. However, they are all against the addition made by the Assessing Officer to the annual letting value on account of notional interest on interest free security received by the assessee.

3. We have heard the arguments of both the sides and perused the material placed before us. We find that the issue is squarely covered in favour of the assessee by the decision of Hon'ble Jurisdictional High Court in assessee's own case. We find that in the earlier years also, similar additions were made by the Assessing Officer which were

deleted by the ITAT. The Revenue had filed the appeal before Hon'ble Jurisdictional High Court which dismissed the Revenue's appeal with the following finding :-

“The operative words in section 23(1)(a) of the Act are “the sum for which the property might reasonably be expected to be let from year to year.”. These words provide a specific direction to the Revenue for determining the fair rent. The Assessing Officer, having regard to this provision is expected to make an inquiry as to what would be the possible rent that the property might fetch. Thus, if he finds that the actual rent received is less than the fair/market rent because the assessee has received an abnormally high interest-free security deposit and because of that, the actual rent received is less than the rent which the property might fetch, he can undertake necessary exercise in that behalf. However, the notional interest on the interest-free security cannot be taken as the determinative factor to arrive at a fair rent. The provisions of section 23(1)(a) do not mandate this. In a taxing statute it would be unsafe for the court to go beyond the letter of the law and try to read into the provision more than what is already provided for.”

4. The decision of Hon'ble Jurisdictional High Court is reported in [2011] 333 ITR 38 (Del) titled as CIT Vs. Moni Kumar Subba. Since the issue is squarely covered by the decision of Hon'ble Jurisdictional High Court in favour of the assessee, respectfully following the above decision, we find no infirmity in the order of learned CIT(A). The same is sustained and Revenue's appeal is dismissed.

5. In the result, the appeal of the Revenue is dismissed.
Decision pronounced in the open Court on 05.04.2016.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Sd/-
(G.D. AGRAWAL)
VICE PRESIDENT

VK.

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1. Appellant : **Deputy Commissioner of Income Tax,
Central Circle-4, New Delhi.**
2. Respondent : **Shri Moni Kumar Subba,
Subba Farm House, 118, Village Sultanpur,
Mehrauli-Gurgaon Road, New Delhi.**
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar