

INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A": NEW DELHI
BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)

ITA No. 6542/Del/2017
(Assessment Year: 2014-15)

ACIT, Central Circle-26, New Delhi	Vs.	Anurag Dalmia, 2 nd Floor, Indraprakash Building, 21 Barakhamba Road, New Delhi
(Appellant)		(Respondent)

Revenue by :	Shri R. K. Gupta, Sr. DR
Assessee by:	Shri V. K. Bindal, CA Mrs. Rinki Sharma, Adv
Date of Hearing	20/10/2020
Date of pronouncement	22/10/2020

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This is an appeal filed by THE ASSISTANT COMMISSIONER OF INCOME TAX, Central Circle – 26, New Delhi against the order of the Id CIT(A)-29, New Delhi dated 25.08.2017 for the AY 2014-15 wherein addition made by the learned assessing officer of Rs 1 78,28,485/- being income on account of undisclosed interest income earned on undisclosed foreign bank account deposits u/s 69 of The Income Tax Act made by the learned assessing officer as per order u/s 143 (3) of The Income Tax Act dated 31 August 2016 was deleted. Thus the revenue is aggrieved.
2. The revenue has raised the following grounds of appeal:-
 - “1. Whether the Id CIT(A) was right in rendering addition made in the hands of the appellant infructuous on the basis of similar addition in the hands of the appellant for the earlier years at CIT(A) level when the addition has not reached finality and should have been held protectively in the hands of the assessee.
 2. That the grounds of appeal are without prejudice to each other.”
3. Brief facts of the case shows that assessee is an individual. During the year under consideration the assessee has derived income from salary, capital gain and income from other sources. The assessee has filed his return of income on 29/7/2014 declaring income of ₹ 9,923, 350/-. It is required to be noted that in assessment year 2012 – 13 the closing balance of the alleged foreign bank account including interest was US dollar 70,30,337.82 as on 31st

of March 2012 which became the opening balance for the assessment year 2013 – 14 and the AO also estimated earned interest income on this sum from 1/4/2012 231/3/2013 for 12 months at the rate of 4% amounting to Rs 1 53,00,826.54, the closing balance of the foreign bank account for the assessment year 2013 – 14 including interest was US dollars 73,11,551.25 as on 31st of March 2013 which became the opening balance for the assessment year 2014 – 15 and the assessee also earned interest income on this sum from 1 April 2013 2/31 of March 2014 at the rate of 4% amounting to Rs 1 78,28,485. The learned assessing officer prepared a chart. He further held that the above interest income has not been disclosed by the assessee to the Department therefore the same is being added to the income of the assessee for the assessment year 2014 – 15 as undisclosed income u/s 69 of the income tax act. Accordingly the total income of the assessee was assessed at Rs 277,51,835/- against the returned income of ₹ 9,923,350/- as per order u/s 143 (3) of the act dated 31st of August 2016.

4. Assessee aggrieved with the order of the learned AO preferred an appeal before the learned CIT – A wherein he deleted the addition following his own order for assessment year 2006 – 07 and 2007 – 08. He held that it is a national interest on the amount of alleged offshore bank account with the HSBC bank Geneva. Therefore the learned assessing officer is aggrieved with this order and has preferred this appeal before us.
5. We have carefully heard the rival contentions of the learned departmental representative as well as the learned authorised representative and perused the orders of the lower authorities. The learned authorised representative submitted a photocopy of the appellate order dated 15th of February 2018 passed by the coordinate bench in the case of the assessee for assessment year 2006 – 07 and 2007 – 08 in quantum appeal. He also submitted a copy of the order of the coordinate bench dated 23 August 2019 in case of the assessee for assessment year 2008 – 09. He also submitted a chart for the various years wherein the addition of notional interest on account of balance in the alleged foreign bank account of the assessee starting from assessment year 2006 – 07 to assessment year 2014 – 15 are added by the learned assessing officer and deleted by the learned CIT – A. We have carefully considered the order of the coordinate bench in ITA number 5395 and 5396/del/2017 for assessment year 2006 – 07 and 2007 – 08 dated 15th of February 2018 wherein the addition on account of investment in the bank account itself was deleted. As the quantum addition itself has been deleted by the coordinate bench with respect to balance in the foreign bank account, there is no question of making an addition on account of the notional interest on that balance. With respect to the main addition in paragraph number 14 the coordinate bench has held that revenue has several other options left but not the action u/s 153A read with the second proviso thereto. Therefore,

when the assessee is not found to be owner of any bank account, till now, there is no reason to uphold the interest on such bank balances. If the assessee is not owner of the amount lying in the bank account, naturally the interest income cannot be added in the hands of the assessee. Even otherwise if the revenue gets any information with respect to the ownership of the money lying in the bank account with HSBC bank Geneva, then the provisions of explanation 2 (d) of Section 148 applies and the interest income can be added in the hands of the assessee. The time limit available with the revenue according to the provisions of Section 149 (1) (C) is up to 16 years. Therefore, we do not find any infirmity in the order of the learned CIT – A, at present, in deleting the addition on account of interest in the hands of the assessee for this year with respect to the alleged the holding of bank balance in the HSBC bank Geneva account, as the addition on the quantum itself has been deleted.

6. Further on reading of the grounds of appeal of the learned assessing officer the only prayer is that when the addition has not reached finality the learned CIT – A should have upheld the addition protectively in the hands of the assessee. We could not find any provision in the act wherein the learned CIT – A could have done so. Even otherwise now there is an extended time limit available to the revenue, it may take recourse to the Section if the conditions permit. Accordingly the solitary ground of appeal is dismissed.
7. In the result appeal of the revenue is dismissed.

Order pronounced in the open court on 22/10/2020.

-Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

-Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Dated: 22/10/2020
A K Keot

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

ASSISTANT REGISTRAR
ITAT, New Delhi