

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

**BEFORE SH. G. S. PANNU, PRESIDENT
AND
SH. RAVISH SOOD, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.4657/Del/2018
Assessment Year: 2012-13

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| Dhanesh Kumar Jain C-89, Shakti Nagar Extension, New Delhi PAN No. AAHPJ55020 (APPELLANT) | Vs | ACIT Circle – 50 (1) New Delhi (RESPONDENT) |
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| Appellant by . | Sh. Ved Jain, Advocate a/w Sh. Aditya Chhajed, Advocate |
| Respondent by | Sh. Sumit Kumar Varma, CIT D.R |

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| Date of hearing: | 08/12/2021 |
| Date of Pronouncement: | 10 /12/2021 |

ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee is directed against the order passed by the CIT(A)-17, New Delhi, which in turn arises from the order passed by the A.O under Sec. 154 of

the Income Tax Act, 1961 (“Act”, for short) dated 14.05.2018 for A.Y 2012-13. The assessee has assailed the impugned order on the following grounds before us :

“1. On the facts and circumstances of the case, the order passed by the learned Commissioner of Income Tax (Appeals) is bad both in the eye of law and on facts.

2. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the action of the AO rejecting the application filed by the assessee under section 154 of the Income Tax Act.

3. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the action of the AO rejecting the application filed by the assessee under section 154 of the Income Tax Act despite the fact that there was a mistake apparent from record duly rectifiable under section 154 of the Act.

4. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in confirming the action of the AO in not allowing the deduction amounting to Rs. 23,20,949/- under section 57(iv) of the Act.

5. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in rejecting the contention of the assessee that the non-claim of the deduction under section 57(iv) on interest received & declared in the return of income on account of late receipt of compensation for land acquired and not claiming the same in the return by the assessee is a mistake apparent on record.

6. On the facts and circumstances of the case, the learned CIT(A) has erred both on facts and in law in interpreting the judicial precedents in the incorrect manner.

7. That the appellant craves leave to add, amend and alter of the grounds of appeal.”

2. Succinctly stated, the assessee during the year in question was in receipt of a sum of Rs.46,21,898/- as interest on compensation qua compulsory acquisition of his agricultural land by Land Collector, Rohtak. The aforesaid interest income was duly disclosed by the assessee in his return of income for the year under consideration. The return of income filed by the assessee was processed as such u/s 143(1) of the Act. Although the assessee as per the mandate of Sec. 57(iv) of the Act was entitled for a statutory deduction of fifty percent of the aforesaid interest income, however, having failed to raise such a claim in his return of income, the assessee holding a conviction that the omission on his part to claim the aforesaid statutory deduction was in the nature of a mistake apparent from record, rectifiable under Sec. 154 of the Act, thus, moved an application before the A.O under the aforesaid statutory provision. However, the A.O being of the view, that the aforesaid claim for deduction could have only been allowed if the same was raised by the assessee in his original/revised return of income, therefore, vide his order dated 16.02.2017 rejected the application of the assessee.

3. Aggrieved, the assessee carried the matter before the CIT(A). However, the CIT(A) finding no infirmity in the view taken by the A.O upheld his order and dismissed the appeal.

4. Controversy involved in the present appeal lies in a narrow compass i.e. as to whether or not the omission on the part of the

assessee to claim deduction u/s. 57(iv) of the Act i.e. @ 50% of interest on compensation that was received by him on acquisition of his agricultural land by Land Collector, Rohtak, was in the nature of a mistake rectifiable within the meaning of section 154 of the Act ? Before adverting any further, we deem it fit to cull out the provisions of section 57(iv) of the Act, which reads as under :-

“57. The income chargeable under the head “Income from other sources” shall be computed after making the following deductions, namely:-

(i) to (iii).

(iv). in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent of such income and no deduction shall be allowed under any other clause of this section.”

(emphasis supplied by us)

On a perusal of the aforesaid statutory provision, it can safely be gathered, that the entitlement of an assessee for claim of deduction i.e @ 50% of the amount of interest received on compensation or on enhanced compensation by him is clearly contemplated under the aforesaid statutory provision. In sum and substance, the factum of receipt of interest on compensation or enhanced compensation in itself vests the assessee with a statutory entitlement of a consequential claim for deduction under Sec. 57 (iv) of the Act. As such, the eligibility of an assessee for claim of deduction under the aforesaid statutory provision is not dependent on any documentary evidence/material, but is

inextricably interlinked or in fact interwoven with the receipt of the interest on compensation or enhanced compensation by him. Now, in the case before us, it is a matter of fact borne from the record, that, the assessee had in his return of income for the year under consideration duly disclosed the interest income that was received by him on the compensation qua acquisition of his agricultural land by the Land Collector, Rohtak. As the assessee had in his return of income duly reflected the interest that was received by him on the compensation qua compulsory acquisition of his agricultural land, therefore, the failure on his part to raise a claim for deduction u/s 57(iv) of the Act, to which he was statutorily entitled, being clearly in the nature of a mistake that was glaring, apparent, patent and obvious from record, therein, rendered the order passed by the A.O amenable for rectification u/s. 154 of the Act. Insofar the observation of the CIT(A) that as the return of income filed by the assessee was subjected to a simpliciter processing u/s 143(1) of the Act and, had not been subjected to scrutiny assessment, therefore, the same could not have been rectified for allowing the assessee's claim for deduction u/s 57(iv) of the Act is concerned, we are afraid that the same does not merit acceptance. At this stage, we may herein observe, that as per the clear mandate of law, an intimation or a deemed intimation under sub-section (1) of Section 143 falls within the realm of clause (b) to sub-section (1) of Section 154 of the Act, therefore, a mistake emanating therefrom, as long as the same is apparent from record, is beyond any doubt rectifiable under the

said statutory provision. As regards the view taken by the CIT(A) that the remedy for claim of the aforesaid deduction can be traced in Sec. 119(2)(b) of the Act, the same too does not find favour with us. In our considered view, where a remedy available to an assessee falls within the four corners of a specific statutory provision, then, the same cannot be declined to him, for the reason, that an alternative remedy is available elsewhere. Be that as it may, we are of a strong conviction that as the A.O remains under a statutory obligation to deduce the 'true income' of an assessee, therefore, the entitlement of the assessee before us towards deduction u/s 57(iv), which is inextricably interwoven or in fact intertwined with the corresponding interest income which had duly been disclosed by him in his return of income, could not have been declined by the A.O on the basis of hyper technical reasons. Our aforesaid view is fortified by the Judgment of the Hon'ble Supreme Court in the case of Anchor Pressings (P) Ltd. Vs. CIT (1986) 161 ITR 159 (SC), wherein the Hon'ble Apex Court, had observed, that where an assessee who was entitled to claim a deduction had omitted to raise such claim in his return of income or in the course of the assessment proceedings, then, he was entitled to make such claim by moving an application u/s. 154 of the Act. For the sake of clarity the observations of the Hon'ble Apex Court are reproduced as under :-

“An obligation is imposed on the income-tax officer by section 84 of the Income Tax Act, 1961, to grant relief there under and the relief cannot be refused merely because the assessee has omitted to claim the relief, but the mere existence of such

an obligation on the income-tax officer is not sufficient. Precise factual material and clear data must be contained in the record sufficient to enable the Income-tax Officer to consider whether the relief should be granted under section 84. In the absence of such material, ITA No.7010/2010 no fault can be found with the Income-tax offer for not making an order under section 84 favouring the assessee”

As in the case of the assessee before us, the complete details that were required to allow his claim for deduction u/s 57(iv) of the Act i.e disclosure of interest on compensation was clearly discernible from his return of income and, no new facts were required to be looked into, therefore, in our considered view, there was no justifiable reason for the A.O to have rejected the assessee’s application u/s 154 of the Act.

9. In the backdrop of our aforesaid observations, we are unable to persuade ourselves to subscribe to the view taken by the lower authorities that the omission on the part of the assessee to claim deduction u/s. 57(iv) in his return of income was not in the nature of a mistake rectifiable under Sec. 154 of the Act. We, thus, set-aside the order of the CIT(A) and direct the A.O to allow the assessee’s claim for deduction u/s. 57(iv) of the Act of Rs.23,20,949/- i.e. @ 50% of the interest on compensation of Rs.46,41,898/- that was disclosed by him in his return of income for the year under consideration. The **Grounds of appeal Nos. 2 to 6** are allowed in terms of our aforesaid observations.

10. The **Grounds of appeal Nos. 1 and 7** being general in nature are dismissed as not pressed.

11. Resultantly, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 10.12.2021.

Sd/-
(G.S. PANNU)
PRESIDENT

Sd/-
(RAVISH SOOD)
JUDICIAL MEMBER

NEHA

Date:- 10.12.2021

Copy forwarded to:

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

ASSISTANT REGISTRAR
 ITAT NEW DELHI.

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| Date on which the typed draft is placed before the Other member | |
| Date on which the approved draft comes to the Sr.PS/PS | |
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