

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

**BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT  
AND  
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.517/Del/2023  
Assessment Year: 2015-16

Ms. Sujata Banerjee, C/o- N. Mehta & Co. (PAO Holder), CAs, Unit-9, Level-3, Radha CHS Ltd., Telli Park Road, Andheri East, Mumbai	<b>Vs.</b>	ACIT, Circle-1(1)(2), International Taxation, New Delhi
<b>PAN :BYOPB3681F</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Porus Kaka, Sr. Advocate Sh. Manish Pant, Advocate
Department by	Sh. Vizay B. Vasanta, CIT(DR)

Date of hearing	10.10.2023
Date of pronouncement	16.10.2023

**ORDER**

This is an appeal by the assessee against the final assessment order dated 25.01.2023 passed for the assessment year 2015-16, in pursuance to the directions of learned Dispute Resolution Panel ('DRP').

2. The dispute in the present appeal is confined to addition of an amount of Rs.2,92,86,700/-.

3. Briefly the facts are, the assessee is a non-resident individual and a tax resident of United States of America (USA). The Assessing Officer received information that in the financial year 2014-15 relevant to assessment year 2015-16, the assessee had purchased immovable properties valued at Rs. 2,40,50,300/- and has incurred additional cost of Rs.52,36,400/- towards transfer charges. Since, the assessee had not filed any return of income, the Assessing Officer reopened the assessment under section 147 of the Act. In course of assessment proceedings, the Assessing Officer called upon the assessee to explain the source of the investment made in purchase of property. In reply, the assessee submitted that the property in dispute was purchased jointly with her husband for total consideration of Rs.2,40,50,300/- from available funds. The Assessing Officer, however, did not accept the explanation of the assessee and proceeded to frame the draft assessment order by treating the amount of Rs.2,92,86,700/- as unexplained income and added to the income of the assessee. Challenging the draft assessment order, the assessee raised objections before learned DRP. Based on the submissions made and evidences furnished, learned DRP called for a remand report from the Assessing Officer. Ultimately,

learned DRP issued the following directions to the Assessing Officer:

*“In view of above, the AO is directed to consider and verify the assessee's contention in light of submissions made as above including the assessee's rejoinder alongwith the details and documents annexed herewith as observed by the Panel at para no 4.1.3.2 above by passing a speaking and reasoned order within the ambit of law and facts of the case. The Panel hastens to clarify that the AO shall not conduct any fresh inquiry in this regard; the verification shall be made on the basis of documents/submissions available on the records. Further, the assessing officer at this juncture cannot raise any issue related to living expenses etc.; he/she is directed to concentrate on the issue under consideration and verify the details and documents filed by the assessee vide her submissions made including letters dated 19.11.2022 and 29.11.2022. The AO is further directed to incorporate his/her observation on the issue of difference of value of investment in the immovable property as raised by the assessee vide point no. 2 & 3 of the rejoinder. The assessee's objections made at all grounds in this regard are hereby, disposed off accordingly.”*

4. However, in the final assessment order, the Assessing Officer again repeated the addition made in the draft assessment order.

5. We have heard Sh. Porus Kaka, learned Senior Counsel appearing for the assessee and Sh. Vizay B. Vasanta, learned Departmental Representative.

6. On perusal of facts and materials available on record, it is observed that the assessee has left India long back in the year 1988 and has become a citizen of USA. Her husband is also a non-resident Indian and a citizen of USA. The facts on record further reveal that the subject property, as referred to by the

Assessing Officer, was jointly purchased by the assessee and her husband. It is observed, in course of proceeding before learned DRP, the assessee has explained in detail the source of investments along with supporting evidences, such as, bank statements, source of income in USA, return of income filed in USA etc. It is observed that the assessee is a salaried employee, being employed with Hewlett-Packard ('HP'). It is also evident, she regularly files her return of income in USA. Thus, the fact that the assessee has sufficient source of income, is beyond doubt.

7. On perusal of the bank statement, it is patent and obvious that the investment for purchase of property was made over a period of time starting from January, 2023 to December, 2015. Each and every payment made towards purchase of the property has been routed through bank account maintained with CITI Bank. This is evident from the documents placed in the paper-book in the form of bank statements and wire transfer request forms.

8. Thus, facts on record clearly reveal that the source of each and every payment made towards purchase of immovable property has been explained by the assessee through supporting evidences. Though, all these materials were available before the

Assessing Officer, however, he has preferred to turn a blind eye to them in spite of the specific directions of learned DRP to pass a speaking and reasoned order and not to conduct any fresh inquiry. Thus, it is quite clear that the Assessing Officer has not carried out the directions of learned DRP in letter and spirit. Inasmuch as, though, investments in property was jointly made by the assessee and her husband from their independent sources, however, entire investment has been added at the hands of the assessee.

9. Be that as it may, after perusing the materials on record, we are convinced that the assessee has explained the source of investment in the immovable property. Therefore, in our considered opinion, the addition made is unsustainable. Accordingly, we delete it.

10. At the time of hearing, learned counsel for the assessee, on instructions, did not press the additional grounds. Accordingly, they are dismissed.

11. In the result, the appeal is allowed, as indicated above.

***Order pronounced in the open court on 16<sup>th</sup> October, 2023***

**Sd/-  
(DR. B.R.R KUMAR)  
ACCOUNTANT MEMBER**

**Sd/-  
(SAKTIJIT DEY)  
VICE-PRESIDENT**

Dated: 16<sup>th</sup> October, 2023.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi