IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH: 'G', NEW DELHI

BEFORE HON'BLE JUSTICE C.V. BHADANG, PRESIDENT

AND

SHRI G.S. PANNU, HON'BLE VICE PRESIDENT

ITA NO. 2977/DEL/2022
A.YR. :2015-16

SATINDER PAUL GUPTA (THROUGH SAHIL GUPTA, LEGAL HEIR), HOUSE NO. 11, ROAD NO. 63, WEST PUNJABI BAGH, NEW DELHI (PAN: AAPPG2434D)	Vs.	DCIT, CIRCLE 6(2), NEW DELHI
(Appellant)		**(Respondent)**

Assessee by	Shri Pranav Yadav, Advocate
Department by	Sh. Anuj Garg, Sr. DR

Date of Hearing	07.11.2023
Date of Pronouncement	01.12.2023

ORDER

PER G.S. PANNU, VP:

This appeal by the Assesseeis directed against the order of the Ld. CIT(A), NFAC, Delhi dated 26.10.2022which in turn has arisen from an order passed by Deputy Commissioner of Income Tax, Circle 6(2), New Delhi dated 31.7.2019 under section 154 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') pertaining to assessment year 2015-16. The appellant has raised the following Grounds:-

i) On facts and in the circumstances of the case, the Ld. AO has erred on the law and facts while passing order u/s. 154 of the I.T. Act, 1961.

ii) That in the assessment order passed u/s. 143(3) of I.T. Act, additions of Rs. 33,151/- were made. However, on the additions of Rs. 33,151/- a sum of Rs. 5,55,347/- was charged as interest u/s. 234B and 234C of I.T. Act, 1961. The appellant filed an application for rectification excess interest charged u/s. 234B and 234C alongwith the calculation sheet of interest u/s. 234B and 234C but the ld. AO passed the rectification order without looking into the submissions of the appellant and without mentioning any reason as to why the rectification of interest is not found tenable by him.

iii) That the ld. AO has disposed off the application filed u/s. 154 without going into the facts of the case and without giving any reason why the claim of the appellant is not found tenable.

iv) That NFAC, Delhi has erred in confirming the interest charged u/s. 234B and 234C as correct without going into the details of calculation of interest submitted by the appellant.

2. Although the assessee has raised multiple Grounds of Appeal, but essentially the grievance arises from the action of the income-tax authorities in non-appropriate disposal of the Application of the Assesseeseeking rectification of mistake in calculation of interest chargeable under sections 234B and 234C of the Act while finalizing the assessment under section 143(3) of the Act dated 20.10.2017.

3. Brieflyput, the relevant facts are that the assessee is an individual who filed his return of income on 31.07.2015 declaring an income of Rs. 1,65,51,280/-, which was subsequently revised on 02.09.2015 reiterating the originally returned income. The return so filed by the assessee was subject to scrutiny assessment under section 143(3) of the Act dated 20.10.2017 whereby the income

was assessed at Rs. 1,65,84,430/-, which resulted in tax payable of Rs. 5,61,080/-, inclusive of interest charged under sections 234B and 234C of the Act of Rs. 3,32,081/- and Rs. 6,32,640/- respectively. It transpires from record that assessee moved a rectification application u/s. 154 of the Act claiming that the charge of interest under sections 234B and 234C of the Act was erroneous on account of an error in computation. The said application has since been rejected by the Assessing Officer vide order dated 31.7.2019 which was unsuccessfully carried in appeal before the Ld. CIT(A).

4. Before us, the only point made by the Ld. Representative is that the application of the assessee has been dismissed by both the authorities below without assigning any reasons; that the assessee would be satisfied if the matter is remanded back to the Assessing Officer for an appropriate disposal of assessee's application in accordance with law.

5. The Ld. DR did not oppose the plea of the assessee for restoration of the dispute to the file of the Assessing Officer for calculation of interest under section 234B and 234C of the Act, in accordance with law.

6. We have considered the rival submissions and perused the record. Ostensibly, in the income tax computation sheet annexed to the assessment order dated 20.10.2017, the total tax and interest payable is computed at Rs. 5,61,080/- *inter alia,* including interest charged under sections 234B and 234C of the Act of Rs. 3,32,081/- and Rs. 6,32,640/- respectively. The assessee filed an application under section 154 of the Act dated 16.11.2017 alongwitha calculation sheet wherein interest under sections 234B and 234C of

the Act was computed at Rs. 2,12,878/- and Rs. 1,96,906/- respectively, which differs from the amounts charged by the Assessing Officer. We find that such application did not find favour with the Assessing Officer and the only reason advanced in the order dated 31.07.2019 (supra) is that the plea of the assessee*"is not found tenable".*

7. The said order of the Assessing Officer, to say the least, is cryptic and bereft of any reasoning. The order of the Ld. CIT(A) also suffers from the same vice in as much as no reason has been advanced for dismissing the appeal of the assessee. It does not require much gainsayingthat the orders of the income tax authorities, which seek to fasten tax liability are in the nature of 'quasi-judicial' orders, which ought to set forth reasonsand the decision thereof, so that the factum of due application of mind by the authority, becomes evident. The Hon'ble Supreme Court in the case of Jagtamba Devi vs. Hem Ram and Ors. in Criminal Appeal No. 257 of 2008 vide judgment dated 04.02.2008 in the context of an order bereft of reasons observed as under:-

> *"7. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Union (1971 (1) All E.R. 1148) observed "The giving of reasons is one of the fundamentals of good administration". In Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 LCR 120) it was observed: "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system,*

reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

8. In our considered opinion, in the instant case, the orders of the authorities below, are conspicuous by absence of any reason for the decision thereof, and therefore, the same are grossly unsustainable.

9. Thus, considering the entirety of circumstances, we set aside the orders of the lower authorities and remit the matter back to the file of the Assessing Officer for consideration afresh. The AO shall consider the calculation of interest u/s. 234B and 234C as canvassed by the assessee in his application dated 16.11.2017 and thereafter pass a speaking order, in accordance with law, after affording a reasonable opportunity of being heard to the assessee, in support of his application.

10. Resultantly, for statistical purposes, the appeal of the Assessee is allowed, as above.

The above decision was pronounced through Video Conferencing on 01.12.2023.

Sd/-	**Sd/-**
(G.S. PANNU)	**(JUSTICE C.V. BHADANG)**
VICE PRESIDENT	**PRESIDENT**

"SRBhatnagar"

Copy forwarded to:

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

Asstt. Registrar, ITAT, New Delhi