

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

**BEFORE Dr. BRR KUMAR, ACCOUNTANT MEMBER
AND
SHRI SUDHIR PAREEK, JUDICIAL MEMBER**

**ITA No:- 374/Del/2023
(Assessment Year- 2013-14)**

Veeratham Sachdev,	Vs.	DCIT, Circle International Taxation, Delhi.
PAN No: CIKPS1050C		
APPELLANT		RESPONDENT

**ITA No:- 390/Del/2023
(Assessment Year- 2016-17)**

Veeratham Sachdev, 24 Wing on Court 7/C HOMANTIN Hill, Kawloon Hongkong, HK 999999 999999, Foreign Thailand.	Vs.	DCIT, Circle International Taxation, Delhi.
PAN No: CIKPS1050C		
APPELLANT		RESPONDENT

Assessee by : Shri Harshit Chauhan, Adv.
Revenue by : Shri Vijay B Vasanta, CIT- DR

Date of Hearing : 30.05.2024
Date of Pronouncement : 31.05.2024

ORDER

PER SUDHIR PAREEK, JM

These instant appeals preferred by the assessee against the order dated 18.01.2023 passed by the Income Tax Department, Office of the Assistant Commissioner of Income Tax, Circle INT Tax 3(1), Delhi, [hereinafter referred to as the 'Ld. ACIT] pertaining to Assessment Years 2013-14 and 2016-17.

2. The assessee has raised the following grounds of appeal:

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“1. That on the facts and in the circumstances of the case and in law, Ld AO erred in not considering the investment in BNP Paribas out of funds available with BNP Paribas wealth management.

2. That on the facts and in the circumstances of the case and in law, Ld AO erred in passing the assessment order, without considering the explanation and records submitted with DRP without any specific reasons.

3. That on the facts and in the circumstances of the case and in law, Ld AO in passing the impugned assessment order, without giving any Show Cause Notice which was unlawful and made in violation of principles of natural justice.

4. That the appellant craves leave to add/alter any/all grounds of appeal before or at the time of hearing of the

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“1. That on the facts and in the circumstances of the case and in law, Ld AO erred in not considering source of investment in SBI Mutual Fund.

2. That on the facts and in the circumstances of the case and in law, Ld AO erred in passing the assessment order, without considering the explanation and records submitted with DRP without any specific reasons.

3. That on the facts and in the circumstances of the case and in law, Ld AO erred in passing the assessment order, without doing any additional enquiry without any specific reasons.

4. That on the facts and in the circumstances of the case and in law, Ld AO in passing the impugned assessment order, without giving any Show Cause Notice which was unlawful and made in violation of principles of natural justice.

5. That the appellant craves leave to add add/alter any/all grounds of appeal before or at the time of hearing of the appeal.”

3. The assessee is an Non-Resident Indian (NRI) and a passport holder of the Kingdom of Thailand. He is also an investor in SBI Mutual fund as well as BNP Paribas Mutual Fund. The assessee received amounts from the Bank of India, State Bank of India and SBI Mutual Fund on account of investments made in SBI Mutual Fund and BNP Mutual Fund. During the assessment proceedings, the assessee could not comply with the notices issue by the Assessing Officer (AO).

4. In the assessment, the AO passed a draft assessment order, making additions of the investments made in SBI Mutual Fund and BNP Paribas Mutual Fund.

5. Aggrieved, the assessee filed objection with the Learned Dispute Resolution Panel (Ld. DRP).

6. The Ld. DRP vide order dated 05.12.2022, directed the AO to pass a speaking order after examining the explanation of the assessee. For the sake of ready reference, the relevant part of the DRP's order is reproduced as under:

“The AO is directed to examine as to whether the assessee can explain from documents submitted regarding source of investment of Rs 1,00,00,000/-, from the available records, and deal with the issue by passing is a speaking order. The DRP hastens to state that AO need not conduct any fresh enquiry on this nor grant any additional opportunity to the assessee before drawing his inference.”

7. Upon receiving the directions from the DRP, the AO passed an order repeating the additions made in the draft assessment order.

8. Aggrieved, the assessee filed appeal before the ITAT.

9. At the outset, both parties fairly submitted that the directions of the Ld. DRP, as mentioned in the para no. 5.4 of the order of the Ld. DRP, had not been followed by the AO. Though, the tax residency status of the assessee is on record, the AO made the addition holding that no reply was received from SBI Mutual Fund and BNP Paribas Mutual Fund. For the sake of ready reference, the relevant part of the final assessment order is reproduced herein below:-

“9(ii) Further, no reply was received from SBI Mutual Fund and BNP Paribas Mutual Fund with respect to the investment of Rs. 5,05,00,000/-. Since the tax residency status of the assessee has not been proven and the source of investments in the mutual funds amounting to Rs. 5,05,00,000/- remains unexplained, thus, the amount of Rs. 5,05,00,000/- is being added as unexplained investment u/s 69 of the Income Tax Act, 1961.”

10. Since the directions of the Ld. DRP have not been followed by the AO, we deem it fit and proper that the interest of justice would be served by remitting the matter to the file of the AO to pass a speaking order duly following the directions of the Ld. DRP.

11. In the result, both the appeal of the assessee are allowed for statistical purpose.

Order pronounced in the Open Court on 31.05.2024

Sd/-
(BRR KUMAR)
ACCOUNTANT MEMBER

Sd/-
(SUDHIR PAREEK)
JUDICIAL MEMBER

Dated: 31/05/2024
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	30.05.24
Date on which the typed draft is placed before the dictating Member	30.05.24
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	