

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
MS MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 1770/Del/2023

(Assessment Year: 2013-14)

Kapil Dev Nikhanj, 39, Sunder Nagar, New Delhi- 11 0001	Vs.	ACIT, Circle-52(1), New Delhi
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(Appellant)

PAN:AADPD9024A

(Respondent)

Assessee by :

Shri Jasmeet Singh, Adv
Mr. Saif Ali, Adv

Revenue by:

Shri Om Parkash, Sr. DR

Date of Hearing

08/01/2025

Date of pronouncement

13/03/2025

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.387/Del/2021 for AY 2015-16, arise out of the order of the Commissioner of Income Tax (Appeals)-37, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 37/10221/2018-19, A.Y. 2015-16 dated 22.09.2020 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 28.12.2017 by the Assessing Officer, DCIT, Circle-16 (2), New Delhi (hereinafter referred to as 'Id. AO').

2. The only effective issue to be decided in this appeal is as to whether the one-time benefit received from by the assessee from Board of Control for Cricket in India (BCCI) as a one-time benefit could be subjected to tax in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. The assessee is a former well renowned cricketer who had represented India in many international matches across the world. The return of income for the assessment year 2013-14 was filed by the assessee under section 139(1) of the Act on 30-09-2013 declaring taxable income of Rs 4,66,28,830/-. The assessee filed a revised return on 27-12-2013 declaring taxable income of Rs 4,26,28,830/- and the revised return was duly processed under section 143(1) of the Act. During the year under consideration amongst other incomes offered to tax in the return, the assessee had also offered to tax a sum of Rs 1.50 crores which he had received from BCCI as a one-time benefit in recognition of his services to Indian cricket in international and domestic levels. The assessment was completed under section 143(3) of the Act on 21-01-2016 after enhancing the income under the head income from house property to the tune of Rs 36,51,115/- and assessed income was determined at Rs 4,62,79,940/-. No appeal was preferred by the assessee against this assessment order as the assessee had accepted to the addition made by the Learned AO in the assessment. Later, the assessee was advised that the one-time benefit received from BCCI in recognition of his past services to Indian cricket in the sum of Rs 1.50 crores is exempt under section 56(2)(vii) of the Act and there were certain decisions which were rendered by the Tribunal in support of the same. Pursuant to this subsequent development, the assessee preferred an appeal before the Learned CITA with a delay of 1993 days. The assessee filed a detailed affidavit explaining the reasons for the delay and proving the sufficient cause there on. The Learned CITA, however, did not condone the delay and dismissed the appeal of the assessee in limine.

4. Before us, the Learned AR prayed for a reduction of income of Rs 1.50 crores as it is exempt under section 56(2)(vii) of the Act in respect of one-

time benefit received from BCCI. In support of this proposition, the Learned AR placed reliance on the decision of Co-ordinate Bench of this Tribunal in the case of Maninder Singh Vs ACIT (another cricketer case) in ITA No. 6954/Del/2019 dated 6-1-2021 for Assessment Year 2013-14.

5. Per Contra, the Learned DR vehemently pleaded that the assessee had taken a conscious call of offering the receipt to tax in the return and did not revise his return for the same. He placed reliance on the decision of Hon'ble Supreme Court in the case of Goetze India Ltd reported in 284 ITR 323 (SC) for stating that any valid claim could be entertained only when there is a claim in the return filed by the assessee.

6. At the outset, we find that the decision of Goetze India referred supra only restricts the power of an assessing authority from not entertaining any fresh claim unless otherwise claimed in the valid return. It does not restrict the powers of the appellate authorities which is clearly mentioned in the last paragraph of the said decision. Hence the argument advanced by the Learned DR in this regard is hereby dismissed. It is a fact that there is a delay of 1993 days with which appeal was filed by the assessee before the Learned CIT(A) which stood uncondoned by the Learned CIT(A). Hence, in the normal course, this issue should only be restored back to the file of Learned CIT(A) if sufficient cause is shown for the delay. The assessee had indeed filed an affidavit explaining the reasons for the delay. On going through the said affidavit, we are convinced that there is sufficient cause. In fact, the assessee had voluntarily come forward to offer the one-time benefit received from BCCI to tax in the return of income. However, pursuant to the subsequent developments by way of certain tribunal decisions, the assessee was advised that the said benefit received by the assessee would be exempt from tax in terms of Section 56(2)(vii) of the Act. The subsequent decision of the tribunal together with better understanding

of provisions of section 56(2)(vii) of the Act had practically prompted the assessee to prefer an appeal per se before the Learned CITA. It is trite law that right amount of tax should be collected from the right person in accordance with law. Article 265 of the Constitution provides that no tax could be collected except by an authority of law. When a statute specifically provides a particular exemption of a particular receipt from tax, the said receipt cannot be brought to tax merely because the assessee had offered erroneously in the return of income. Ultimately, income is to be determined in accordance with the provisions of the Act and revenue cannot take advantage of ignorance of the assessee while determining the taxable income. It is a fact that this one-time benefit received from BCCI in recognition of services would be eligible for exemption under Section 56(2)(vii) of the Act as BCCI is a trust or institution registered under Section 12AA of the Act. This fact has been endorsed by the Coordinate Bench in the case of Maninder Singh Vs ACIT in ITA No. 6954/Del/2019 for assessment year 2013-14 dated 6-1-2021. Hence, respectfully following the same, we do not deem it fit to restore this appeal to the file of Learned CIT(A) for de novo adjudication and instead decide the issue here itself as the issue is already covered and the provisions of the Act are very clear in this regard. Accordingly, the grounds raised by the assessee are hereby allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 13/03/2025.

-Sd/-
(MADHUMITA ROY)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 13/03/2025
A K Keot

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

ASSISTANT REGISTRAR
ITAT, New Delhi