

ITAT: If there is no supporting evidence, Section 68 does not apply to the transfer of foreign income into an NRE account

Aswat Juned Motiwala [TS-514-ITAT-2023(AHD)]
Sep 13, 2023

CA Om Rajpurohit & Adv. Sakshi Bhardwaj
-AMRG & ASSOCIATES



Facts of the case

- The case pertains to the Assessment Year 2017-18 under section 143 of the Income Tax Act, 1961.
- The taxpayer is a non-resident individual and a partner in a UAE-based partnership firm.
- The taxpayer filed an income tax return in India, declaring both taxable and exempt income.
- The Assessing Officer (AO) initiated scrutiny due to discrepancies and lack of evidence.

Assessee's contention

- The taxpayer argued that the exempted income was earned abroad and therefore not taxable in India.
- The remittance of funds to India from the UAE represented non-taxable business income.
- The taxpayer's non-resident status supported the claim of non-taxability.
- The taxpayer provided documentary evidence to support these contentions.

Revenue's contention

- The Revenue contended that the taxpayer failed to provide sufficient evidence to justify the exempted income and the source of remittance.
- The AO made additions to the taxpayer's income based on discrepancies and a lack of corroborative material.
- The Revenue appealed the Commissioner's decision.

Held:

- The Appellate Tribunal upheld the Commissioner's order.
- The Tribunal held that the additions made by the AO were not justified.
- The taxpayer's non-resident status and the absence of sufficient evidence to tax the income in India were crucial factors.
- The Tribunal found that the income earned abroad was not taxable in India, and the remittance did not represent taxable income.

AMRG Take

This case underscores the importance of providing sufficient evidence to support income tax claims. The taxpayer's non-resident status played a crucial role in the decision, and the absence of concrete evidence to tax the income in India led to a favorable outcome for the taxpayer. It highlights the need for taxpayers to carefully document and justify their income sources, especially when dealing with international transactions and non-resident status.



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