

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पॉल राव, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ITA. No. 728/JP/2018
निर्धारण वर्ष / Assessment Years : 2015-16

Income- Tax Officer Ward-1(3), Ajmer	बनाम Vs.	Shri Atish Kapoor, Group Centre CRPF, Talegaon Dabhade, Pune (Maharashtra)
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AZQPK7583D		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by: Shri J. C. Kulhari (JCIT)
निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal (CA)

सुनवाई की तारीख / Date of Hearing : 01/08/2018
उद्घोषणा की तारीख / Date of Pronouncement : 02/08/2018

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the Revenue against the order of Id. CIT (A)- Ajmer dated 22.03.2018 for Assessment Year 2015-16 wherein the Revenue has taken the following sole grounds of appeal:-

"On facts and in law, the Ld CIT(A), Ajmer erred in:-

- 1. Allowing indexation from the FY 1981-82 by taking fair market value of residential property as on 01.04.1981 as cost of acquisition without appreciating the fact that the assessee has acquired the property on 15.08.2006 and not during the FY 1981-82.*

2. Allowing the exemption u/s 54 of Rs. 10,69,308/- for investment in new residential house without appreciating the fact that the assessee failed to produce any invoice/bill and documentary evidence in support of claim and it has also not been proved that the cash available out of withdrawal of Rs. 18,04,305/- was actually utilized for the construction of the residential house, as held by the CIT(A)."

2. At the time of hearing, the Id. AR of the assessee has raised an objection of maintainability of the appeal of the Revenue due to the tax effect not exceeding Rs. 20 lacs as per the CBDT Circle No. 3 of 2018 dated 11th July, 2018.

2.1. The Id. D/R has fairly submitted that the tax effect involved in the Revenue's appeal comes to Rs 12,58,934 less than 20 lacs which is prescribed threshold limit in terms of the CBDT Circular No. 3/2018 dated 11th July, 2018 issued in supersession of its earlier Circular No. 21 of 2015 dated 10.12.2015.

3. We have heard the rival contentions and perused the materials available on record. It is observed that the demand/ tax effect in the Revenue's appeal in question is below Rs. 20.00 lacs . Under the powers vested by section. 268A(1) of the I T Act, CBDT has recently issued Circular No. 3/2018 dated 11th July, 2018 (F No. 279/Misc. 142/2007-ITJ(Pt) instructing the authorities below that departmental appeal should not be filed before ITAT where the

demand/tax effect does not exceed Rs. 20 lacs. The circular is specifically mentioned to be applicable for all pending appeals.

4. Subject to some exceptions, it is further directed by CBDT that all the departmental appeals pending before ITAT where the demand/tax effect is not exceeding than 20 lacs should be either withdrawn or not pressed by the departmental representatives.

5. The present appeal is not covered by any exceptions mentioned in the said CBDT circular. Since the tax demand in dispute in this departmental appeal is below the limit set out by CBDT for the appeal, the appeal of the assessee is not maintainable in view of CBDT Circular No. 3 of 2018 dated 11.07.2018. Accordingly the appeal of the Department is dismissed as not pressed/withdrawn.

In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 02/08/2018.

Sd/-

(विजय पॉल राव)
(Vijay Pal Rao)

न्यायिक सदस्य / Judicial Member

Sd/-

(विक्रम सिंह यादव)
(Vikram Singh Yadav)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 02/08/2018

*Ganesh Kr.

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- Income Tax Officer, Ajmer
2. प्रत्यर्थी / The Respondent- M/s Atish Kapoor, Group Centre CRPF, Pune (Maharashtra)

3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur.
6. गार्ड फाईल / Guard File { ITA No. 728/JP/2018 }

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar