

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. 794/JP/2018
निर्धारण वर्ष / Assessment Years : 2014-15

Income- Tax Officer Ward-2 (1), Ajmer	बनाम Vs.	Smt. Madhu Devi Fatehpuria Ajmer
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AAAPF8446R		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by: Shri J. C. Kulhari (JCIT)
निर्धारिती की ओर से / Assessee by : Shri Rohit Tiwari (Adv.)

सुनवाई की तारीख / Date of Hearing : 13/08/2018
उदघोषणा की तारीख / Date of Pronouncement : 13/08/2018

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 26.03.2018 for Assessment Year 2014-15 wherein the Revenue has taken the following grounds of appeal:-

"In view of the facts and circumstances of the case the Ld. CIT(A), Ajmer has erred in:

- 1. deleting the addition of Rs. 45,42,493/- made u/s 68 of the I.T. Act, 1961 on account of bogus claim of LTCG u/s 10(38) and addition of Rs. 3,17,975/- made u/s 69C of the I.T. Act for commission payment, without appreciating the facts of the case*

and modus operandi of the scheme which clearly prove that all the transactions were sham transactions and used as a colorable device to create documentary evidences for converting unaccounted money into tax exempt income;

2. deleting both the additions without appreciating the fact that the assessee made bogus claim of LTCG by availing accommodation entries. M/s PS IT Infrastructure & Services Limited was one of such company whose director also admitted that this company is a paper company;

2. The Id. D/R has submitted that the tax effect involved in the Revenue's appeal comes to Rs 15,01,944/- less than Rs 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 both the parties and perused the material 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 IT 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 Revenue is dismissed as not pressed/withdrawn.

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

Order pronounced in the open Court on 13/08/2018.

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:- 13/08/2018

*Ganesh Kr.

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

1. अपीलार्थी / The Appellant- Income Tax Officer, Ajmer
2. प्रत्यर्थी / The Respondent- Smt. Madhu Devi Fatehpuria, Ajmer
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. 794/JP/2018 }

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar