

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR**

**Before Sh. N. S. Saini, Accountant Member
And**

Sh. N. K. Choudhry, Judicial Member

ITA No. 616/Asr./2015 : Asstt. Year : 2007-08

Income Tax Officer, Ward-II(2), Muktsar	Vs	Shri. Manpreet Singh Badal, S/o Shri. Gurdas Singh Badal, Vill Badal, Distt. Muktsar
(APPELLANT)		(RESPONDENT)
PAN No. AFJPB2460B		

**Assessee by : Shri. Ashwani Kalia, CA
Revenue by : Smt. Ratinder Kaur, DR**

Date of Hearing :20.02.2019

Date of Pronouncement : 21.02.2019

ORDER

Per N. S. Saini, AM:

This is an appeal filed by the Revenue against the order of CIT(A), Bathinda dated 18.09.2015.

2. At the time of hearing, the AR of the assessee has filed a letter of Deputy Commissioner of income Tax(Judl.), Bathinda dated 19.02.2019 seeking permission for withdrawal of appeal as the tax effect in the appeal was below the prescribed monetary limit for filing appeal before the Tribunal.

3. We find that the letter of Deputy Commissioner of income Tax(Judl.), Bathinda dated 19.02.2019 reads as under:

"2. In this regard, it is stated that penalty u/s 271(1)(c) of the Act was imposed after confirmation of addition on account of long term capital gains on sale consideration received by members of Punjab Co-operative Housing Building Society Ltd. The additions

involved full amount of sale consideration accrued to the members which included monetary consideration and value of built up flat to be received by the members.

3. The High Court in C.S. Atwal, subsequently upheld by the Supreme Court, held that capital gain was exigible only on the sale consideration received by the members on actual transfer of land by the society to the developers during the year. In view of the order of the Hon'ble High Court, the addition was restricted to proportionate sale consideration received by the assesseees on actual transfer of land to the developer during the year.

4. In view of the above facts, the amount of penalty also has to be reduced proportionately on the amount of capital gains chargeable to tax after giving effect to the order of the Hon'ble High Court in view of provisions of Section 275(1A) of the Act. Hence, in our humble view, the tax effect in the cases gets reduced to the amounts, which are below the monetary limits prescribed in Instruction No. 3/2018 for filing of appeal before the ITAT."

4. In view of the above, we dismiss the appeal of the Revenue.

5. In the result, the appeal of the Revenue is dismissed.
(Order Pronounced in the Open Court on 21/02/2019)

Sd/-
(N. K. Choudhry)
Judicial Member
Dated: 21/02/2019

Subodh

Sd/-
(N. S. Saini)
Accountant Member

Copy forwarded to:

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

ASSISTANT REGISTRAR