

-आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद।

IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD – BENCH ‘B’

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER  
AND  
SHRI AMARJIT SINGH, ACCOUNTANT MEMBER**

**ITA No.1059/Ahd/2017**

**निर्धारण वर्ष/ Asstt.Year: 2009-10**

Dr.Neela Ramesh Gandhi A-12, Silver Arc Abhyankar Hospital B/h. Town Hall Madalpur Underbridge Ellisbridge, Ahmedabad 380 006. PAN : ABCPG 5172 C	Vs.	ITO, Ward-1(1)(1) Ambawadi Ahmedabad.
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<b>(Applicant)</b>		<b>(Responent)</b>
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Assessee by :	Shri Sakar Sharma, AR
Revenue by :	Shri N.K. Goel, Sr.DR

सुनवाई की तारीख/Date of Hearing : 30/09/2019

घोषणा की तारीख /Date of Pronouncement: 01/10/2019

**आदेश/O R D E R**

**PER RAJPAL YADAV, JUDICIAL MEMBER:**

Assessee is in appeal before the Tribunal against order of Id.CIT(A)-1, Ahmedabad dated 27.02.2017 passed for the assessment year 2009-10.

2. Assessee taken three grounds of appeal. In ground no.1 and 2, she has challenged reopening of the assessment under section 147 and in ground no.3 she has contended that the AO has erred in withdrawing assessability of long term capital gain arising on sale of residential property, and consequent denial of exemption under section 54 in re-assessment.

3. Brief facts of the case are that the assessee has filed her return of income on 30.7.2009 declaring total income at Rs.3,11,346/-. The assessment order was passed under section 143(3) on 30.11.2011 determining total income at Rs.3,68,670/-. The AO thereafter reopened the assessment by issuance of notice under section 148 of the Act. He recorded reasons. Copy of the reasons is placed on page no.54 of the paper book. The Id.AO after hearing the assessee again determined the taxable income at Rs.3,68,670/- as was determined in the assessment under section 143(3) dated 30.11.2011. Dissatisfied with the certain observations and finding, the assessee filed an appeal before the Id.CIT (A) which did not bring any relief to the assessee.

4. With the assistance of the Id.representatives, we have gone through the record carefully. The basic objection of the AO is sale of residential premises bearing no.7, Nalanda Society, Naranpura by the assessee to Adinath Leasing & Finance P.Ltd. (“Adinath” for short). Since according to the AO, there was no sale, therefore, no capital gain arose to the assessee, which could be set off against the purchase of new property at Ashwamegh Bungalow. He has not made any addition on account of unexplained investment in the new property. Her income was determined at Rs.3,68,670/-. Thus, there is no specific grievance to the assessee except regarding of certain finding/observations against a transaction which is affecting the case of “Adinath”, whose appeal is also pending in the Tribunal bearing No.1069/Ahd/2017. Considering the above aspects, in our opinion, this appeal has no cause of action in specific. It can be disposed of with a remark that all pleas which are available to Smt.(Dr.) Neela Ramesh Gandhi against non-acceptance of

sale of residential property at 7, Nalanda to “Adinath” could be available to the assessee, “Adinath” in its appeal. In other words, any finding recorded by the AO here in the case of Smt.(Dr.) Neela Ramesh would not be construed as final while issue is being examined in the case of “Adinath”. This finding will not cause any prejudice to the defence/ explanation of the “Adinath”. Both the assessees have filed common paper book which is not in accordance with Rule. They should have filed independent paper book. Considering the above facts and circumstances, we dismiss the appeal of Smt.(Dr.) Neela Ramesh Gandhi subject to the above observation, because there is no specific cause of action to the assessee except assisting the case of “Adinath” for treating transaction as genuine. Registry is directed to place the paper book filed in the case of “Adinath” i.e. ITA No.1069/Ahd/2017. Thus, the present appeal of Smt.(Dr.) Neela Ramesh Gandhi is dismissed.

5. In the result, appeal of the assessee is dismissed.

**Order pronounced in the Court on 1<sup>st</sup> October, 2019 at Ahmedabad.**

**Sd/-  
(AMARJIT SINGH)  
ACCOUNTANT MEMBER**

**Sd/-  
(RAJPAL YADAV)  
JUDICIAL MEMBER**