

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL,
JAIPUR BENCHES (SMC), JAIPUR
श्री रमेश सी शर्मा, लेखा सदस्य के समक्ष
BEFORE: SHRI RAMESH C SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1123/JP/2019
निर्धारण वर्ष / Assessment Year: 2008-09

Shri Dayaram Poonia, A-3, Hanuman Nagar, Khatipura, Jaipur.	बनाम Vs.	I.T.O., Ward-3(2), Jaipur.
स्थायी लेखा सं./ जीआईआर सं./ PAN/GIR No.: ADJPP 6187 F		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by: Shri Dev Arora (CA)
राजस्व की ओर से / Revenue by : Shri Manmohan Kandpal (ACIT)

सुनवाई की तारीख / Date of Hearing : 21/11/2019
उदघोषणा की तारीख / Date of Pronouncement : 22/11/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-I, Jaipur dated 21/06/2019 for the A.Y. 2008-09 in the matter of order passed U/s 144/147 of the Income Tax Act, 1961 (in short, the Act).

2. At the outset, the Id AR of the assessee placed on record the order of the Tribunal in assessee's own case on the very same issue dated 19/04/2017 for the A.Y. 2011-12 and 2012-13 wherein the matter was

restored back to the file of the A.O. with certain directions. The Id AR also placed on record the order passed by the A.O. dated 12/12/2018 to give effect to the order of the Tribunal dated 19/04/2017. As per order passed by the A.O. relief was given by the A.O. himself after examining the documents as suggested by the Tribunal.

3. I have considered the rival contentions and carefully gone through the orders of the authorities below as well as order passed by the Coordinate bench of this Tribunal dated 19/04/2017 as well as consequential order passed by the A.O. dated 12/12/2018 wherein the A.O. has passed order considering the directions of the Tribunal and given full relief to the assessee. The order of the A.O. dated 12/12/2018 read as under:

“Return of income declaring total income at Rs.3,00,110/- filed electronically by the assessee on 28.03.2013. Thereafter, the case was select for scrutiny through CASS and the case was completed on 30.01.2015 at total income of Rs.3,00,110/-, but the disallowed the excess TDS claimed by die assessee amounting to Rs 2,41,855/- (255291-13436=241855), as the TDS of Rs.255291/- was deducted from the all 18 co-owners of the assessee. After the order passed by the AO, assessee chosen the appeal. The decision passed on 03.02.2016 in favor of the Department. Further, the assessee challenge the order of Id. CIT(A) in the Hon'ble ITAT and Hon'ble ITAT has directed the AO to re-examine the

matter a fresh, hence, notice u/s 142(1) of the Act issued to the assessee on 14.08.2018. In response to the above notice assessee filed reply alongwith supporting evidence

On examination of the reply filed by the assessee, it is noticed that the rental income from property situated at Ramchandrapura, Sanganer, Jaipur was divided in 19 co-owners including assessee, but the TDS of Rs.2,55,291/- deducted on the above rental income claimed by the assessee only. In response to the above the assessee has filed reply alongwith 18 co-owner ITR and on examination of these ITRs it is noticed that the no other owner claimed deducted TDS against income from house property. Therefore, in view of the above claim of IDS allowed and assessed accordingly.

3. *After considering the facts of the case, the income of the assessee for the A.Y. 2011-12 is assessed at total income at Rs.3,00,110/-. Prepared & processed on AST and issued FINS-150 forming part of this order. Charged interest as per rules. Allowed credit for TDS/prepaid taxes as directed by the Hon'ble ITAT in its order in ITA No. 493/JP/2016 dated 19.04.2017. Issued notice of demand u/s 156 and necessary challan."*

4. The Id DR has fairly agreed that all the facts and circumstances during the year under consideration are same as considered by the Tribunal in assessee's own case and also agreed that the A.O. after considering the direction of the Tribunal had given relief to the assessee. Accordingly, I allow the assessee's appeal in terms of the order passed by the Tribunal and the A.O. as narrated above.

5. In the result appeal of the assessee is allowed.

Order pronounced in the open court on 22nd November, 2019

Sd/-
(रमेश सी शर्मा)
(RAMESH C SHARMA)
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 22nd November, 2019

*Ranjan

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

1. अपीलार्थी / The Appellant- Shri Dayaram Poonia, Jaipur.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward-3(2), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 1123/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar