

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

श्री विजय पाल 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. 227/JP/2020  
निर्धारण वर्ष / Assessment Year : 2009-10

Smt. Jasbir Kaur 123, Brahampuri Shankar Nagar Jaipur	बनाम Vs.	ITO, Ward-5(1), Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: ACBPK5017G		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : None  
राजस्व की ओर से / Revenue by : Ms. Chanchal Meena (ACIT)

सुनवाई की तारीख / Date of Hearing : 24/08/2020  
उदघोषणा की तारीख / Date of Pronouncement: 24/08/2020

आदेश / ORDER

PER: VIKRAM SINGH YADAV, A.M.

This is an appeal filed by the assessee against the order of Id. CIT(A)-2 Jaipur dated 09.01.2020 for Assessment Year 2009-10 confirming the addition under the head "Income from capital gains" amounting to Rs 11,06,536/-.

2. The hearing of the matter was scheduled for today through video conferencing in view of the ongoing Covid-19 pandemic situation prevailing in the country. None has appeared on behalf of the assessee. The Id. DR drawn our reference to the order of Id. CIT(A) and submitted that on as many as nine occasions, the assessee was provided reasonable opportunity by the Id. CIT(A) but the assessee has either sought adjournment or has not attended to the appellate proceedings. It was accordingly submitted that more than adequate opportunity has been provided by the Id. CIT(A) and the matter has

accordingly been decided by the Id CIT(A) and the same should therefore be confirmed.

3. We have heard the Id DR and perused the material available on record. We find that the matter has been listed for hearing on couple of occasions by the Id CIT(A) and has been adjourned from time to time at the request of the AR and on the last date of hearing, none has attended. We believe that the assessee cannot sit back and relax merely by filing her appeal and needs to be vigilant and responsive to attend to the notices issued by the appellate authorities and non-attending to the proceedings and responding to the notices cannot be encouraged as the same burdened and clogs the judicial system. At the same time, we find that the AO has brought to tax income on the sale of an immoveable property without even allowing benefit of cost of acquisition of the said property which is a legitimate deduction while computing the income under the head "capital gains". In the assessment order, the AO has mentioned about the purchase of the property by the assessee, therefore, it is not a case where there was no cost of acquisition, therefore, in the facts and circumstances of the present case, the matter relating to cost of acquisition needs to be examined. Further, the assessee in her grounds of appeal taken before the Id CIT(A) has contended that the impugned transaction has already been declared in her original return of income and where the same is found to be correct, it is a settled position that the same transaction cannot be brought to tax twice in the hands of the same assessee. We however note that there is no finding recorded by the Id CIT(A) in respect of both these matters and the matter has been decided by the Id CIT(A) summarily without deciding on merits. We therefore believe that in the interest of justice and fair play, the assessee deserves one more opportunity to put forth her arguments and contentions and we accordingly set aside the matter to the file of the Id. CIT(A) to examine the matter afresh

including the above two matters after providing reasonable opportunity to the assessee. The assessee through her A/R is also directed to appear before the Id. CIT(A) and file the necessary information and documentation in support of her contentions, as so advised and ensure in timely completion of the proceedings.

In the result, appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 24/08/2020.

Sd/-  
(विजय पाल राव)  
(Vijay Pal Rao)  
न्यायिक सदस्य / Judicial Member

Sd/-  
(विक्रम सिंह यादव)  
(Vikram Singh Yadav)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 24/08/2020

\*Ganesh Kr.

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

1. अपीलार्थी / The Appellant- Smt. Jasbir Kaur, Jaipur
2. प्रत्यर्थी / The Respondent- ITO, Ward-5(1), Jaipur
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. 227/JP/2020}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar