

THE INCOME TAX APPELLATE TRIBUNAL
"G" Bench, Mumbai
Shri Shamim Yahya (AM) & Shri Ramlal Negi (JM)

I.T.A. No. 3039/Mum/2017 (Assessment Year 2011-12)

ACIT-26(1) Room No. 701 C-11, 7 th Floor Bandra Kurla Complex Bandra East Mumbai-400 051. (Appellant)	Vs.	Shankaran B. Nair 412, Thacker Tower Vashi Navi Mumbai-400 0703. PAN : ABGPN5289B (Respondent)
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Assessee by	None
Department by	Shri T.S. Khalsa
Date of Hearing	08.03.2021
Date of Pronouncement	09.03.2021

ORDER

Per Shamim Yahya (AM) :-

This appeal by the revenue is directed against order of learned CIT-A dated 16.1.2017 and pertains to assessment year 2011-12.

2. The grounds of appeal read as under :-

i. "On the facts and in the circumstances of the case and in law, the Ld.CIT(A) erred in deleting the disallowance of Rs.67,66,865/- made u/s 54 of the IT Act, holding that the assessee is entitled for claiming deduction u/s 54 proportionately in respect of the payments towards purchase of new property made within the prescribed time limit."

ii) "On the facts and in the circumstances of the case and in law, the Ld.CIT(A) erred in not appreciating that neither the date of purchase agreement nor the date of construction agreement (of the new house property) was within the period of one year before or two years after the date of transfer of house property specified in section 54(1) of the IT Act, 1961."

iii) "On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in not appreciating that the assessee had also not taken the possession of the new flat within the stipulated period and that the deduction u/s. 54 cannot be granted even on proportionate basis as the assessee had not fulfilled the mandatory condition prescribed for claiming this deduction."

iv) "On the facts and in the circumstances of the case and in law, the Ld.CIT(A) erred in deleting the addition of Rs.7,00,000/- made on account of undisclosed capital gain ignoring that the assessee had failed to discharge the onus of explaining the nature and source of this sum received by him."

v) "The appellant prays that the order of the CIT (A) on the above grounds be set aside and that of the A.O. be restored."

3. At the outset it is noted that that the tax effect in this case is below the limit of Rs. 50,00,000/- fixed by CBDT vide Circular No. 17/2019 dated 8/8/2019 for filing appeal before the 1TAT. Hence this appeal by the revenue is not maintainable.

4. Ld DR could not dispute that the tax effect is below the said limit. He could not point out that the appeal falls in any of the exceptions carved in said circular.

5. Upon careful consideration we find that, as the tax effect is below the limit fixed by CBDT for filing appeals before the ITAT, this appeal by the revenue is liable to be dismissed in limine. The revenue will have liberty to seek restoration of the appeal if the tax effect is found to be beyond the above limit. Accordingly the appeal stands dismissed as such.

6. In the result, Revenue's appeal stands dismissed.

Pronounced in the open court on 9.3.2021.

Sd/-
(RAMALAL NEGI)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 09/03/2021

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

Shankaran B. Nair

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

//True Copy//

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