

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "C" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER &
SHRI P.K.KEDIA, ACCOUNTANT MEMBER**

**ITA No.2143/Del/2017
[Assessment Year : 2012-13]**

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| ACIT, Central Circle-19, Room No.104, 1 st Floor, Hall No.1, ARA Centre, E-2, Jhandewalan Extn., New Delhi. | vs | Shri Harish Panwar, 185-F, Pocket-1, Mayur Vihar, Phase-1, Delhi. PAN-AGXPP-738R |
| APPELLANT | | RESPONDENT |
| Appellant by | Shri Kumar Padmapani Bora, Sr.DR | |
| Respondent by | Shri M.P.Rastogi, Adv. | |
| Date of Hearing | 30.11.2021 | |
| Date of Pronouncement | 31.01.2022 | |

ORDER

PER KUL BHARAT, JM :

This appeal filed by the Revenue for the assessment year 2012-13 is directed against the order of Ld. CIT(A)-27, New Delhi dated 06.01.2017.

The Revenue has raised following grounds of appeal:-

1. *" That the Ld. CIT (A) erred in law and on facts in deleting the addition of Rs.2,40,39,613/- as capital gain on account of non explanation of the possession of the house without properly appreciating the facts that*
 - (a) *More than 3 years & 5 month lapsed as on date of assessment order dated 31.03.2015 but no evidences of construction/possession was filed which ought to have been done in 2 years.*
 - (b) *Alleged investment was made In Saamag group company namely My s. Zenith Township Pvt. Ltd. from which assessee*

derive salary income may not be genuine Villa purchase transaction but merely a Financial transaction.

2. (a) *Thus, the order of the CIT(A) is erroneous and not tenable in law and on facts.*

(b) The appellant craves leave to add, alter or amend any/all of the grounds of appeal before or during the course of the hearing of the appeal.”

2. Facts giving rise to the present appeal are that in this case, the assessee had filed its return of income through e-mode, declaring an income of Rs.2,43,400/- on 28.03.2013. The same was processed u/s 143(1) of the Income Tax Act, 1961 (“the Act”). Subsequently, the case was selected for scrutiny under CASS. The statutory notice u/s 143(2) of the Act was issued and served upon the assessee and in response thereto, the Ld.AR of the assessee attended the assessment proceedings. The Assessing Officer observed that the assessee during the year earned a net capital gain of Rs.2,40,39,613/- on the sale of share of Delta Softpro Private Limited after deduction of commission paid and indexation. It was observed that the assessee was in possession of 3,333 (33%) shares of Delta Softpro Pvt.Ltd. which was acquired by the assessee on 04.09.2006 at the time of incorporation of the company. The company, alongwith all of its assets, was sold to New Delhi Television Limited (“NDTV”) and the assessee received an amount of Rs.2,50,45,957/- as his share for the equity shares hold. The capital gain so earned was invested by the assessee by booking a Villa with Zenith Township Pvt.ltd. for Rs.2,42,74,560/- and had claimed deduction u/s 54F of the Act. The

Assessing Officer asked the assessee to explain as to how this deduction is allowable. The Assessing Officer was of the view that the assessee did not fulfill the condition as laid down for allowance of exemption under section 54F of the Act. As per the AO, the assessee had received full consideration from NDTV ltd. on 21.10.2011 and till date the assessee had not constructed or taken possession of the new property which is beyond 3 years. As the assessee had entered in Villa Buyer's agreement on 22.09.2012. Therefore, the Assessing Officer disallowed the deduction of Rs.2,40,39,613/- claimed u/s 54F of the Act and added the same into the income of the assessee hence, the Assessing Officer computed the income at Rs.2,42,83,013/- against the income declared by the assessee of Rs.2,43,400/-.

3. At the outset, it is pointed out that the present appeal is not maintainable on account of low tax effect. It is stated that tax effect is below the peculiar limit as prescribed by the CBDT Circular No.17/2019 dated 08.08.2019.

4. Ld.Sr.DR could not point out that the tax effect involved is higher than Rs.50 Lacs as prescribed by the CBDT Circular No.17/2019 dated 08.08.2019.

5. We have heard the rival submissions and perused the material available on record and gone through the orders of the authorities below. We find that tax effect involved is lower than Rs.50 Lacs as prescribed by CBDT Circular (supra). Therefore, the appeal deserves to be dismissed being not maintainable.

6. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 31st January, 2022.

Sd/-

(P.K.KEDIA)
ACCOUNTANT MEMBER

Amit Kumar

Copy forwarded to:

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

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI