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

डा० एस. सीतालक्ष्मी, न्यायिक सदस्य एवं श्री राठोड कमलेश जयन्तभाई, लेखा सदस्य के समक्ष
BEFORE: DR. S. SEETHALAKSHMI, JM & SHRI RATHOD KAMLESH JAYANTBHAI, AM

आयकर अपील सं./ITA No. 14/JP/2021
निर्धारण वर्ष/Assessment Years : 2015-16

Naveen Gehlot Flat No. E-3, Vallabham Apartment Valabhbari, Gumanpura Kota, Rajasthan	बनाम Vs.	Pr. Commissioner of Income Tax, Udaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AFVPG 6240 A		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/ Assessee by : Sh. Dinesh Kumar (Adv.)
राजस्व की ओर से/ Revenue by : Sh. Saroj Dubey(CIT)

सुनवाई की तारीख/ Date of Hearing : 12/04/2022
उदघोषणा की तारीख/Date of Pronouncement: 28/04/2022

आदेश/ ORDER

PER: RATHOD KAMLESH JAYANTBHAI, AM

This appeal filed by the assessee is arising out of an order passed by the Pr. Commissioner of Income tax, Udaipur dated 22-02-2021 for the assessment year 2015-16. The assessee has raised the following grounds of appeal:-

"1. Because on the facts and circumstances of the case, the Learned Principal Commissioner of Income Tax erred in assuming jurisdiction under Section 263 of the Act, whereas the mandatory condition for assuming jurisdiction are totally absent with the result that the impugned order passed under Section 263 of the Act is bad in law.

2. Because the Learned Principal Commissioner of Income Tax has erred in assuming jurisdiction and reopening the assessment of the Appellant without there being any violation of the liberal provisions of Section 54 of the Act which otherwise are settled by literal construction as well as judicial precedents.

3. That the Learned Principal Commissioner of Income Tax has grossly erred in holding that deduction claimed under the head of capital gains have been erroneously allowed by AO without proper enquiry and verification whereas the assessee was duly assessed under the provisions of Section 143(3) which in itself bars the exercise of provisions of Section 263 without cogent reasons. Moreover, the same is patently change of opinion which otherwise is not permitted.

4. That further submissions shall be made at the time of hearing.

5. That the appellant craves leave to add, amend or alter all or any of grounds of appeal and relief claimed before or at the time of hearing."

2. The hearing of the appeal was concluded through audio-visual medium on account of Government guidelines on account of prevalent situation of Covid-19 Pandemic, both the parties have placed their written as well as oral arguments during this online hearing process.

3. During the course of hearing, the assessee has filed a letter dated 22.02.2021 wherein he has contended as under:-

"1. That the Appellant has filed the instant appeal against the order of Principal Commissioner of Income Tax, Udaipur dated 22.2.2021 passed under Section 263 of the Income Tax Act, 1961.

2. That the said appeal was heard by the Hon'ble Bench and was kept as part heard and directed the appellant to file purchase deed which was filed on 29.3.2022.

3. That in the meanwhile, the National Faceless Assessment Centre, Delhi has proceeded with the assessment proceedings in pursuance of the order of Principal Commissioner of Income Tax, Udaipur dated 22.2.2021 and has now passed as assessment order dated 29.3.2022 under Section 143(3) read with Section 263 of the Act accepting the return of income as assessed in order dated 27.12.2017 under Section 143(3) of the Act. The Assessment Order dated 29.3.2022 is annexed herewith.

It is therefore requested that the said order may kindly be taken on record and appropriate order while deciding the appeal may kindly be passed."

4. Per contra, the ld. DR has also not objected the fact stated by the AR of the assessee.

5. Looking to the facts and information placed before us as the impugned order challenged before us and grievance arising out of an order is settled by the Assessing Officer by passing an order in favour of the assessee. Therefore, this appeal filed by the assessee based on that facts stated before us stands withdrawn and treated as dismissed.

In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 28/04/2022

Sd/-	Sd/-
(डा० एस. सीतालक्ष्मी)	(राठोड कमलेश जयन्तभाई)
(Dr. S. Seethalakshmi)	(Rathod Kamlesh Jayantbhai)
न्यायिक सदस्य / Judicial Member	लेखा सदस्य / Accountant Member

जयपुर / Jaipur
दिनांक / Dated:- 28/04/2022
*Ganesh Kumar

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

1. The Appellant- Naveen Gehlot, Kota
2. प्रत्यर्थी/ The Respondent- Pr. CIT, Udaipur
3. आयकर आयुक्त/ The ld CIT
4. आयकर आयुक्त(अपील)/The ld CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर/DR, ITAT, Jaipur
6. गार्ड फाईल/ Guard File (ITA No. 14/JP/2021)

आदेशानुसार/ By order,

सहायक पंजीकार/Asst. Registrar