

IN THE INCOME TAX APPELLATE TRIBUNAL  
RAJKOT BENCH, RAJKOT

[ CONDUCTED THROUGH VIRTUAL COURT ]

**Before: Shri Waseem Ahmed, Accountant Member  
And Shri Siddhartha Nautiyal, Judicial Member**

**ITA No. 22/Rjt/2020  
Assessment Year 2016-17**

Smt. Bhavnaben Shitalbhai Ravani, B-4 Shulabh Apartment, Jagnath Plot Street No. 6, Dr. Yagnik Road, Rajkot PAN: BEFPR5264H (Appellant)	Vs	Chief Commissioner of Income Tax (TDS), Ahmedabad (Respondent)
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**ITA No. 23/Rjt/2020  
Assessment Year 2016-17**

Smt. Shitalbhai Rasiklal Ravani, B-4 Shulabh Apartment, Jagnath Plot Street No. 6, Dr. Yagnik Road, Rajkot PAN: BEFPR5264H (Appellant)	Vs	Chief Commissioner of Income Tax (TDS), Ahmedabad (Respondent)
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**Assessee by: Written Submission**  
**Revenue by: Shri Shramdeep Sinha, Sr. D.R.**

Date of hearing : 31-01-2023  
Date of pronouncement : 15-02-2023

**आदेश/ORDER**

**PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-**

These two appeals filed by the assessee for A.Y. 2016-17, arise from order of the Chief Commissioner of Income Tax (TDS) CCIT, TDS, Ahmedabad dated 20-12-2019, in proceedings under section 119(2)(a) r.w.s. 201(1A) and 220(2A) of the Income Tax Act, 1961; in short “the Act”.

2. These are appeals filed by Ms Bhavna Shital Ravani and Shri Shitalbhai Rasiklal Ravani, who are joint holders in property against the order passed by Chief Commissioner of Income Tax (TDS) dated 20-12-2019 for assessment year 2016-17. Since common issues are involved in both the appeals under consideration before us, the same are being disposed of by way of a common order.

**Ms Bhavna Shital Ravani has taken the following grounds of appeal**

“1. Whether on the fact and in circumstances of the case, an original order u/s. 119(2)(a) read with section 201(1) (IA) and section 220(2A) by the Chief CIT(TDS)- Ahmedabad for waiver is erroneous in law and in facts specially when there was no separate Individual name application for waiver of interest made by the assessee u/s.

220(2A) of the Act before him and also no separate Individual order u/s. 201 (!A) for levy of interest made by the Income Tax Officer ( TDS ) - Rajkot, as such impugned order is unwarranted, unjustified and bad in law. The same may be quashed.

2. Without prejudice to the ground above, the Chief CIT (TDS), Ahmedabad was justified in law in ignoring various facts material placed and scope of three conditions u/s. 220(2A) laid down in the Act. Further no separate individual name application for waiver of interest was made by the assessee and no separate order for levy of Interest made by the ITO (TDS), Rajkot and the section 220(2A) is a quasi judicial in nature for grating waiver of interest etc. were not considered the claim favorably in light of the law when it was in vogue on reasonable cause being shown. The decision taken by the Chief CIT (TDS) in the order is not sufficient and was totally laconic with reference to a various numbers of decisions of Hon. Supreme Court and High Courts. Therefore, the order by the Chief C.I.T.(TDS) is required to be quashed. The same may be quashed.

3. Without prejudice to the grounds above, the learned Chief C.I.T. (TDS), Ahmedabad is erred in taking full share of amount of levy of interest u/s. 201(1 A) as against half (1/2 ) share in the property (flat) in question. The correct amount of half (1/2 ) share is Rs.72,602/- instead of 1,45,203/-full share in the property (flat). The same may be corrected.

Tax effect relating to each ground of appeal:

a. ....	1,45,203/-
b. ....	1,45,203/-
c. ....	<u>1,45,203/-</u>
Total tax effect ( see note below ) . . . <b>1,45,203/-</b> ”	

**Shri Shital Rasiklal Ravani has taken the following grounds of appeal:**

“a. Original (joint names) order under section 119(2)(a) read with section 201 (IA) and 220(2A) by the learned Chief C.I.T. (TDS), Ahmedabad for waiver of interest is erroneous in law and in facts

*especially when there was no separate Individual names application for waiver of interest u/s. 220(2A) of the Act before him and also no separate Individuals order u/s. 201(1 A) for levy of interest made by the Income tax Officer (TDS), Rajkot before him, and further a complete non application of mind to the provisions of section 220(2A) of the Act, as such impugned order (Joint names) is unwarranted, unjustified and bad in law. The same is required to be quashed.*

*b. Without prejudice to the ground above, the learned Chief C.I.T. (TDS), Ahmedabad was justified in law in ignoring various facts material placed. The finding totally unjustified and unwarranted as the section 220(2A) is a quasi - judicial in nature for granting waiver of interest is not considered which is found to be inadequate and insufficient and was totally laconic with reference to numbers of decision of the Hon. Supreme court and various High courts of law of Land. Therefore, the order by the Chief C.I.T. (TDS) is required to be quashed.*

*c. Whether on the fact s and in circumstances of the case, the learned Chief C.I.T. (TDS), Ahmedabad is erred in not granting the claim of waiver of interest under section 220(2A) and failing to the scope of conditions laid down in section 220(2A) of the Income Tax Act is squarely applicable to the appellants which entitle them to get waiver of interest under section 220(2A) of the Act and also erred on the merits in confirming the decline to entertain the waiver petition and rejected u/s. 220(2A) of the Income Tax Act.*

*Tax effect relating to each ground of appeal:*

1.	.....	...	1,45,203/-
2.	.....	...	1,45,203/-
3.	.....	...	1,45,203/-
<b>Total tax effect (see note below) . . .</b>			<b>1,45,203/-"</b>

3. The brief facts in relation to the case are that the applicants (husband-and-wife) had purchased an immovable property at Mumbai for a consideration of ₹ 3,72, 31,560/- on 19-10-2015, but failed to deduct tax at source as required under section 194-IA of the Act. Accordingly, the TDS

Officer charged interest of ₹ 1, 45,203/- u/s 201(1A) of the Act. The assessee filed an application before the Chief Commissioner of Income Tax (TDS)-Ahmedabad for waiver of the levy of interest of ₹ 1,45,203/- by placing reliance on CBDT Circular Number 11/2017 dated 24-03-2017. However, the CCIT (TDS) rejected the application for waiver of interest on the ground that the case of the applicants is not covered in any of the conditions stipulated in the Circular Number 11/2017 dated 24-03-2017 relied upon by the applicants. Further, the CCIT (TDS) also rejected the alternate contention of the applicants for waiver of interest charged under section 220(2A) of the Act on the ground that the case of the applicants is not covered under section 220(2A) since interest on the applicants has been charged under section 201(1A) of the Act.

4. The applicants (husband-and-wife) are in appeal before us against the above order passed by Chief Commissioner of Income Tax (TDS)-Ahmedabad rejecting the claim of the applicants for waiver of interest by way of order under section 119(2)(a) r.w.s. 201(1A) and 220(2A) of the Act.

5. At the outset, the DR pointed out that the appeal of both the applicants is not maintainable since the orders passed by the CCIT (TDS) are not appealable before ITAT under section 253 of the Act. We have perused the contents of section 253 of the Act and observe that the appeal of the applicants is not maintainable before us. We are producing the contents of section 253 of the Act for reference:

*Appeals to the Appellate Tribunal.*

253. (1) Any assessee aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order—

(a) an order passed by a Deputy Commissioner (Appeals) before the 1st day of October, 1998 or, as the case may be, a Commissioner (Appeals) under section 154, section 250, section 270A, section 271, section 271A, section 271J or section 272A; or

(b) an order passed by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995, but before the 1st day of January, 1997; or

(ba) an order passed by an Assessing Officer under sub-section (1) of section 115VZC; or

(c) an order passed by a Principal Commissioner or Commissioner 80[under section 12AA or section 12AB] or under clause (vi) of sub-section (5) of section 80G or under section 263 or under section 270A or under section 271 or under section 272A or an order passed by him under section 154 amending his order under section 263 or an order passed by a Principal Chief Commissioner or Chief Commissioner or a Principal Director General or Director General or a Principal Director or Director under section 272A; or

(d) an order passed by an Assessing Officer under sub-section (3), of section 143 or section 147 or section 153A or section 153C in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order;

(e) an order passed by an Assessing Officer under sub-section (3) of section 143 or section 147 or section 153A or section 153C with the approval of the Principal Commissioner or Commissioner as referred to in sub-section (12) of section

*144BA or an order passed under section 154 or section 155 in respect of such order;*

*(f) an order passed by the prescribed authority under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.*

6. We observe that the case of the applicants does not fall under any of the clauses of section 253 of the Act. Accordingly, since the order passed by the CCIT (TDS)-Ahmedabad is not maintainable before us, the appeals of the applicants are being dismissed for want of maintainability.

7. In the result, both the appeals of the applicants are dismissed.

Order pronounced in the open court on 15-02-2023

**Sd/-**

**(WASEEM AHMED)  
ACCOUNTANT MEMBER  
Ahmedabad : Dated 15/02/2023**

**Sd/-**

**(SIDHHARTHA NAUTIYAL)  
JUDICIAL MEMBER**

**आदेश की प्रतिलिपि अग्रहित / Copy of Order Forwarded to:-**

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order,

Assistant Registrar,  
Income Tax Appellate Tribunal,  
Rajkot