

आयकर अपीलीय अधिकरण, इंदौरन्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE
BEFORE SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

(Conducted through Virtual Court)

ITA No.122/Ind/2021
Assessment Year: 2015-16

Shri Chelaram Khemlani, 29, Maharani Road, Indore	बनाम/ Vs.	Pr. CIT-1 Indore
(Appellant / Assessee)		(Respondent / Revenue)
PAN: ACSPK 9498 C		
Assessee by	Shri Ashish Goyal & N.D. Patwa, Ars	
Revenue by	Shri P.K. Mishra, CIT-DR	
Date of Hearing	02.01.2023	
Date of Pronouncement	24.03.2023	

आदेश/ O R D E R

Per B.M. BIYANI, AM:

Feeling aggrieved by revision-order dated 27.03.2021 passed by Ld. Pr. Commissioner of Income-Tax (Appeal)-1, Indore [**Ld. PCIT**] u/s 263 of Income-tax Act, 1961 [**the Act**], which in turn arises out of assessment-order dated 09.05.2017 passed by learned ITO-4(1), Indore [**Ld. AO**] u/s 143(3) for Assessment-Year [**AY**] 2015-16, the assessee has filed this appeal on the grounds raised in appeal memo.

2. Heard the learned Representatives of both sides at length and case-records perused.

3. The registry has informed that the appeal is filed after a delay of 23 days and therefore time-barred. The Ld. AR prayed that the delay has occurred due to Covid-19 Pandemic. The Ld. AR further placed reliance on the order of Hon'ble Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020 read with Misc. Applications**, by which suo motu extension of the limitation-period for filing of appeals w.e.f. 15.03.2020 under all laws has been granted and hence there is no delay in fact. We confronted the Ld. DR who agreed to the submission of Ld. AR. In view of this, the appeal is proceeded with for hearing, there being no delay.

4. Briefly stated the facts are such that the assessee filed return of income of the relevant AY 2015-16 which was subjected to scrutiny assessment and the assessment was completed by order u/s 143(3) of the Act at the returned income. Subsequently, Ld. PCIT examined the record of assessment-proceeding and viewed that the assessment-order passed by Ld. AO is erroneous in so far it is prejudicial to the interest of revenue, which attracts revisionary-jurisdiction u/s 263. The reasons of framing such a view, by Ld. PCIT is that the assessee purchased a plot of land for Rs. 33,00,038/- through a Purchase-Agreement dated 31.03.1997 but the Sale-Deed was registered on 15.04.2014 falling within the previous year 2014-15 relevant to AY 2015-16. Ld. PCIT further observed that the stamp authority had assessed the valuation of plot at Rs. 3,38,75,000/- which exceeds the consideration of Rs. 33,00,038/- paid by assessee and, therefore, section 56(2)(vii)(b) is attracted; according to which the difference of Rs. 3,38,75,000/- (-) Rs.33,00,038/- should have been taxed as "income from other sources" but the Ld. AO has not assessed the same and that is why the assessment-order is rendered erroneous-cum-prejudicial to the interest of revenue.

4. Accordingly, the Ld. PCIT issued a show-cause notice u/s 263, in response to which the assessee filed a reply which is reproduced in para No. 2 of revision-order.

5. However, the submissions made by the assessee could not impress the Ld. PCIT. The Ld. PCIT finally passed revision-order whereby the assessment-order was set aside with a direction to re-examine the issue.

6. Aggrieved by such revision-order, the assessee has filed this appeal.

7. By means of various grounds raised in the Appeal Memo, the appellant-assessee requires us to adjudicate whether or not the revision-order passed by Ld. PCIT u/s 263 is valid in the eyes of law?

8. Ld. AR straight away carried us to the assessment-order, the revision-order and documents filed in Paper-Book, more particularly, the Purchase-Agreement placed at page No. 18 to 20 of the Paper-Book and Sale-Deed placed at page No. 32 to 45 of the Paper-Book. Drawing our attention to Purchase-Agreement, Ld. AR submitted that the assessee had purchased the impugned plot on 31.03.1997, paid entire consideration and also given possession by then; therefore the purchase-transaction has fully completed in previous year 1996-97 relevant to AY 1997-98 itself. Referring to various pages of Sale-Deed, Ld. AR submitted that the said Deed was executed on 31.03.2014, the same was presented to the office of Sub-Registrar on 31.03.2014; the stamps duty was paid on 31.03.2014; and the endorsements of all these are clearly noted, recorded and signed by the Sub-Registrar; therefore the registration is also effectuated on 31.03.2014 falling within the previous year 2013-14 relevant to AY 2014-15. Ld. AR submitted that the event of purchase stood completed in AY 2007-08 and execution of sale-deed got effectuated in AY 2014-15; therefore the impugned transaction is nothing to do with AY 2015-16 for which revision has been done by Ld. PCIT. Ld. AR submitted that it is true that the office of

Sub-Registrar has released the Sale-Deed on 15.04.2014 (falling within the previous year 2014-15 relevant to AY 2015-16) but the date of release is not relevant at all and cannot make the impugned transaction taxable in AY 2015-16. Ld. AR raised twin-arguments for this proposition, namely (i) the assessee does not have any control over the office of sub-registrar for the time taken in releasing the Sale-Deed, and (ii) legally the Sale-Deed released on 15.04.2014 takes effect on/from 31.03.2014 i.e. the date on which it was executed and presented. Ld. AR drew our attention to Page No. 10 of the revision-order where the Ld. PCIT has himself accepted **“It is not doubted that documents were placed before the Registrar on 31.03.2014, stamp duty was also paid, buyers and sellers appeared before registrar etc.”** Ld. AR submitted that once these all facts are accepted, it is totally illogical on the part of Ld. PCIT to conclude that the transaction had completed on 15.04.2014 i.e. the date on which the Sale-Deed is released. With these precise submissions, Ld. AR strongly contended that the impugned transaction does not give rise to any taxability in the AY 2015-16; therefore the revision-order passed by Ld. PCIT is bad and deserves to be quashed.

9. Ld. DR representing the Revenue, though re-iterated the observations made by Ld. PCIT in revision-order but could not rebut the submission made by Ld. AR that the Sale-Deed having been executed and presented on 31.03.2014, the transaction would not come within the grip of AY 2015-16.

10. We have considered the submission of both sides. After careful consideration we find that firstly, the transaction was done through Purchase-Agreement dated 31.03.1997 and secondly, the Sale-Deed was also executed on 31.02.2014. Therefore, none of these two events fall within the previous year 2014-15 relevant to AY 2015-16 for which revision has been conducted by Ld. PCIT. We also find merit in the submission of Ld. AR that even if the Sale-Deed has been released on 15.04.2014, the date of release is not relevant for the reasons that (i) the assessee does not have any control over the registration

authorities for release of documents, and (ii) legally the Sale-Deed executed and presented to the office of sub-registrar on 31.03.2014 will take effect on 31.03.2014 itself. Thus, looking into these aspects, we are of the considered view that the impugned transaction was not at all relatable to AY 2015-16 and therefore the Ld. PCIT is wrong in invoking revisionary jurisdiction for AY 2015-16. Being so, we are inclined to quash the impugned revision-order passed by Ld. PCIT and restore the original assessment-order passed by Assessing Officer.

11. Resultantly, this appeal of assessee is allowed.

Order pronounced as per Rule 34 of ITAT Rules, 1963 on 24/03/2023.

Sd/-

(T.R. SENTHIL KUMAR)
JUDICIALMEMBER

Sd/-

(B.M. BIYANI)
ACCOUNTANTMEMBER

Indore

दिनांक /Dated : 24.03.2023

Patel/Sr. PS

Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*

1.	Date of taking dictation	14.3.23
2.	Date of typing & draft order placed before the Dictating Member	14.3.23
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	14.3.23
4.	Date on which the fair order is placed before the Dictating Member for pronouncement	14.3.23
5.	Date on which the file goes to the Bench Clerk	
6.	Date on which the file goes to the Head Clerk	
7.	Date on which the file goes to the Assistant Registrar for signature on the order	
8.	Date of dispatch of the Order	