

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'D': NEW DELHI)**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT  
AND  
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER**

**ITA No:- 1135/Del/2020  
(Assessment Year: 2015-16)**

Shri Ajay Dudeja, Faridabad.	Vs.	Income Tax Officer, International Taxation, Gurgaon.
<b>PAN No: ABCPD3637R</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA No:- 1136/Del/2020  
(Assessment Year: 2015-16)**

Shri Santosh Kumar Dudeja, Faridabad.	Vs.	Income Tax Officer, International Taxation, Gurgaon.
<b>PAN No: ABPPD4430M</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA No:- 1137/Del/2020  
(Assessment Year: 2015-16)**

Anju Rani, Faridabad.	Vs.	Income Tax Officer, International Taxation, Gurgaon.
<b>PAN No: ABHPR2518L</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA No:- 1138/Del/2020**  
**(Assessment Year: 2015-16)**

Sunder Das Dudeja, Faridabad.	Vs.	Income Tax Officer, International Taxation, Gurgaon.
<b>PAN No:</b> ABPPD4429A		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**ITA No:- 1139/Del/2020**  
**(Assessment Year: 2015-16)**

Deepa Dudeja, Faridabad.	Vs.	Income Tax Officer, International Taxation, Gurgaon.
<b>PAN No:</b> AGEPD8637J		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Assessee by** : Shri Jitender Chawla, CA  
**Revenue by** : Shri Sanjay Kumar, Sr. DR

**Date of Hearing** : 04.10.2023  
**Date of Pronouncement** : 06.10.2023

**ORDER**

**PER N.K. BILLAIYA, AM**

ITA Nos. 1135,1136,1137,1138, & 1139/Del/2020 are five separate appeals by five different assessees preferred against the order of the CIT(A)-43, New Delhi, dated 21.05.2019 pertaining to A.Y. 2015-16

2. Since the underlying facts in the grievance are identical in the captioned appeals, these were heard together and are disposed of by this common order for the sake of convenience and brevity.

3. Facts on records shows that the captioned assesseees were co-owners of an immovable property being Plot No.-25, Sector 21C, Urban Estate, Faridabad having 1/5<sup>th</sup> share each.

3.1 The said property was purchased by them vide sale deed No.- 10619 dated 27.10.2014 from Mr. Hardeep Singh, tax @ 1% was deducted at source from the consideration paid to Mr. Hardeep Singh.

3.2 When Mr. Hardeep Singh, filed his return of income, he mentioned his status as NRI which triggered the impugned proceedings as the AO was of the firm belief that the purchasers ought to have deducted tax at source @ 20% as per the relevant provision of the Act. Since tax was deducted at source @ 1% , impugned proceedings were initiated against the captioned assessee and the AO concluded the proceedings by charging interest under Section 201 and 201(1A) of the Act from the date on which such tax was deductible till the date of such tax was deducted and levied interest of Rs. 1,27,400/- on each of the captioned assessee.

4. The order of the AO was challenged before the CIT(A) and the CIT(A) by way of separate appellate orders confirmed the charging of interest. Before us, the Counsel for the assessee furnished the tax details of Mr. Hardeep Singh and pointed out that Hardeep Singh has offered the capital gains on the sale such property and has paid taxes thereon. Therefore, there is no loss to the Revenue. The DR strongly supported the order of the CIT(A) stating that charging of interest is mandatory and is automatic.

5. We have given a thoughtful consideration to the orders of the authorities below. When the captioned assessee purchased the impugned property from Mr. Hardeep Singh, they were unaware of the fact that the Mr. Hardeep Singh was an NRI nor this fact was disclosed by the seller. The purchasers under the bonafide belief and in good faith deducted tax at source @ 1% which was the applicable rate on such transaction. Therefore, it cannot be said that the purchasers wilfully deducted tax at a lower rate.

6. It is only when Mr. Hardeep Singh filed his return of income; the AO as well as the captioned assessee came to know that Mr. Hardeep Singh

was an NRI. Since the transaction was concluded earlier, therefore, the purchasers could not do anything.

7. Considering the peculiar facts of the case, we are of the considered view, that the impugned purchasers i.e. the five captioned assessee could not be considered as assessee in default and therefore in our considered view on the given facts of the case interest under provision of Section 201(1) & 201(1A) of the Act are not applicable. We therefore, direct the AO to delete the interest charged in the hands of the captioned assessees. All the appeals are accordingly allowed.

8. In the result, appeals are allowed.

Order pronounced in the Open Court on 6.10.2023

**Sd/-**  
**(SAKTIJIT DEY)**  
**VICE PRESIDENT**

**Sd/-**  
**(N.K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

Dated: 6/10/2023.  
Pooja/-

Copy forwarded to:

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

ITA Nos.- 1135/Del/2020 and 4 other appeals.  
Ajay Dudeja.

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	04.10.2023
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	