

IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "G" : DELHI]

BEFORE SHRI G. S. PANNU, HON'BLE VICE-PRESIDENT
A N D
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER

आ.अ.सं./I.T.A No.1768/Del/2019
निर्धारणवर्ष/Assessment Years: 2008-09

Shri Santosh Chetal, Legal Heir of Shri Vikrant Chetal, Chetal Niwas, Mohalla Rampura, Hisar, Haryana - 125 001.	<u>बनाम</u> Vs.	Income Tax Officer, Ward : 4, Hisar.
PAN No. ACQPS8319G		
अपीलार्थी / Appellant		प्रत्यर्थी/ Respondent

निर्धारितकीओरसे /Assessee by :	Shri Kuldip Khera, C. A.;
राजस्वकीओरसे / Department by :	Shri Anuj Garg, Sr. D. R.

सुनवाईकीतारीख/ Date of hearing :	02/11/2023
उद्घोषणाकीतारीख/Pronouncement on :	09/11/2023

आदेश / O R D E R

PER C. N. PRASAD, J. M. :

1. This appeal is filed by the assessee against the order of the ld. Commissioner of Income Tax (Appeals) [hereinafter referred to

CIT (Appeals)] Hisar, dated 30.11.2018 for assessment year 2008-09 in dismissing the appeal of the assessee and not granting refund claimed by the assessee.

2. In the course of hearing we observe that the assessee filed return originally offering interest on additional compensation received by the assessee on acquisition of lands to tax. Upon issue of notice under section 148 of the Income Tax Act, 1961 (the Act) and in response to the said notice a return was filed claiming exemption under section 10(37) in respect of interest on additional compensation received along with refund of taxes paid.

3. The Assessing Officer passed assessment under section 143(3) dropping proceedings under section 147 of the Act initiated through notice dated 30.03.2015 for the assessment year under consideration. The Assessing Officer also issued NIL demand notice to the assessee. Assessee filed appeal before the Id. CIT (Appeals) contending that the Assessing Officer is not justified in not considering the return filed in response to notice issued under section 148 of the Act and passing a speaking order on the claim made for exemption under section 10(37) of the Act on the interest on compensation and for not issuing refund as claimed in the return filed in response to section 148 of the Act.

4. On a query from the bench as to how an appeal can lie against the order passed by the Assessing Officer in accepting the income returned by the assessee and dropping the proceedings initiated under section 147 of the Act and not granting refund as claimed in the return the Id. Counsel for the assessee submits that the

assessee may be permitted to withdraw the appeal. The ld. Counsel filed letter dated 2.11.2023 to that effect withdrawing the appeal stating that he will pursue other legal remedies for claiming refund of taxes claimed in the return filed in response to section 148 of the Act. In view of the submissions of the ld. Counsel and the written request for withdrawal of appeal, we permit the assessee to withdraw the appeal and to pursue alternate remedy available under law for claiming refund.

5. In the result, appeal of the assessee is dismissed as withdrawn.

Order pronounced in the open court on : 09/11/2023.

Sd/-
(G. S. PANNU)
VICE-PRESIDENT

Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

Dated : 09/11/2023.

MEHTA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. आवेदक / Assessee
2. राजस्व / Revenue
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, DELHI /

DR, ITAT, DELHI

6. गार्ड फाइल / Guard file.

By order

ASSISTANT REGISTRAR
ITAT, New Delhi.

Date of dictation	02.11.2023
Date on which the typed draft is placed before the dictating Member	03.11.2023
Date on which the typed draft is placed before the Other Member	09.11.2023
Date on which the approved draft comes to the Sr. PS/PS	09.11.2023
Date on which the fair order is placed before the Dictating Member for pronouncement	09.11.2023
Date on which the fair order comes back to the Sr. PS/PS	09.11.2023
Date on which the final order is uploaded on the website of ITAT	09.11.2023
Date on which the file goes to the Bench Clerk	09.11.2023
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	