

आयकर अपीलीय अधिकरण न्यायपीठ, पटना।
IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA BENCH, PATNA
(Through virtual hearing at Kolkata)

BEFORE DR. MANISH BORAD, ACCOUNTANT MEMBER
&
SHRI SONJOY SARMA, JUDICIAL MEMBER

I.T.A. No. 70/PAT/2019
Assessment Year: 2010-11

Asst. Commissioner of Income-tax, CC-3 , Patna	Vs	Shri Rajesh Kumar Singh, HUF S/o Late Laxmi Narayan Singh, Sita Sadan, Rajapur Pul, Patna [PAN : AACHR7224K]
अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
Assessee by :		Shri A.K. Rastogi, Advocate
Revenue by :		Shri Rinku Singh, CIT DR

सुनवाई की तारीख/Date of Hearing : 09.07.2024 &
18.10.2024
घोषणा की तारीख /Date of Pronouncement : 18.10.2024

आदेश/O R D E R

PER DR. MANISH BORAD, ACCOUNTANT MEMBER:

The captioned appeals filed by the Revenue, pertaining to assessment years 2010-11 are directed against the order passed by the Learned Commissioner of Income Tax (Appeals) – 3, Patna (hereinafter referred to as the 'Id. CIT(A)') dated 17th December, 2018, which is arising out of the assessment order u/s 143(3)/ 153C of the Income-tax Act, 1961 (the Act) vide dated 24th January, 2014.

2. Assessee has raised following grounds of appeal:-

- “1. That the CIT (A) has erred in deciding the taxability of Long Term Capital Gain in the hands of taxpayer in the year of registration of JDA and GPA
2. That the CIT (A) has erred in deleting the entire addition made by the AO on account of Long Term Capital Gain arising out of sale of property in the year of registration of instrument, treated as year of acquisition;”

3. With the assistance of Id. CIT(DR), we have gone through the grounds raised by the Revenue. It is pertinent to note that the tax effect by

virtue of relief given by the first appellate authority is less than Rs.60,00,000/-. As per CBDT Instruction bearing No. 9 of 2024 issued on 17th September, 2024, CBDT has directed its subordinate authorities not to challenge the order of Id. CIT(Appeals) before Tribunal if tax effect by virtue of relief given by the Id. CIT(Appeals) is less than Rs.60,00,000/-. Such order could only be challenged if it comes within exceptions provided in the Instruction. Issue raised in the instant appeal do not fall in any of the exceptions provided in the CBDT Circular (*supra*) and therefore, this appeal is not maintainable.

4. On due consideration of the above facts and circumstances, we dismiss these appeals of the Revenue for want of tax effect. However, in case on re-verification of the facts at the end of the Assessing Officer, it comes out that tax effect is more than 60 lacs or this case falls in any of the exceptions provided in this Instruction then Revenue will be at liberty to file Miscellaneous Application for revival of these appeals. Such application should be filed within the time limit provided in the Act.

5. In the result, all the appeals of the Revenue are dismissed.

Order pronounced in the Court on 18th October, 2024 at Kolkata.

Sd/-

**(SONJOY SARMA)
JUDICIAL MEMBER**

Sd/-

**(DR. MANISH BORAD)
ACCOUNTANT MEMBER**

Kolkata, Dated 18.10.2024

***SS, Sr.Ps**

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , पटना/DR,ITAT, Patna,
6. गार्ड फाईल /Guard file.

TRUE COPY

आदेशानुसार/ BY ORDER,

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Patna