

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "C", NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER,

AND

SHRI YOGESH KUMAR US, JUDICIAL MEMBER

	ITA NO. 667/Del/2017	
	A.YR. : 2011-12	
DEPUTY COMMISSIONER OF INCOME TAX, CENTRAL CIRCLE, ROOM NO. 229, 2 ND FLOOR, CGO COMPLEX-I, HAPUR CHUNGI, GHAZIABAD	VS.	SH. JAGESH KHAITAN, KOTHI NO. 47, SECTOR-4A, CHANDIGARH
(APPELLANT)		(RESPONDENT)

Appellant by : Sh. Ayush Garg, CA
Respondent by : Sh. Dayainder Singh Sidhu, CIT(DR)

Date of hearing : 28.10.2024

Date of pronouncement : 28.10.2024

ORDER

PER SHAMIM YAHYA, AM :

The Revenue has filed the instant Appeal against the Order of the Ld. CIT(Appeal-IV), New Delhi dated 30.11.2016, relating to assessment year 2011-12 on the following grounds:-

1. That the Ld. CIT(A) has erred in law and on facts in deleting the addition made by the AO on account of long term capital gains and ignored the finding of the AO that no exemption is allowable on swapping / transfer of shares of companies without any consideration.
2. That the Ld. CIT(A) has erred in law and on facts in creating the transfer of shares of companies between two different families as 'family settlement' which is actually 'business transactions' between two separate families and declaring it as family settlement through an 'unregistered document' is nothing but a 'colorable device' to avoid payment of capital gains tax.

3. The Ld. CIT(A) has misdirected himself in relying on judicial precedents which are not applicable to the facts of this case.
4. That the order of the Ld. CIT(A) being erroneous in law and on facts which needs to be vacated and the order of the AO be restored.

2. At the time of hearing, Ld. AR for the assessee has submitted that the tax effect in this appeal of the Revenue is below Rs. 60 lakhs. In this behalf, he filed a copy of Tax Effect Calculation which shows the total tax effect involved is Rs. 50,51,840/-. He also filed a copy of CBDT Circular No.09/2024 dated 17.09.2024 wherein, the CBDT has revised the monetary limit for filing of the departmental appeals to the ITAT at Rs. 60 lakhs. In view of this, he requested that the Revenue's appeal may be dismissed accordingly.

3. At the time of hearing, Ld. DR fairly agreed that the tax effect in this appeal of the Revenue is below the prescribed limit.

4. In view of the above position, we deem it fit and proper to dismiss the appeal of the Revenue in the light of the latest Circular No.09/2024 of the CBDT dated 17.09.2024, as not maintainable.

5. In the result, the appeal of the Revenue is dismissed.

Order pronounced on 28/10/2024.

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

SRB

Copy forwarded to:-

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT

Assistant Registrar