

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "A-Bench" JAIPUR

डॉ. मीठा लाल मीना, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष  
BEFORE: DR. MITHA LAL MEENA, AM, & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 862/JPR/2024  
निर्धारण वर्ष/Assessment Year : 2017-18

ACIT, Circle-7, Jaipur.	बनाम Vs.	Sh. Pradeep Kumar Gupta C-95, Baba Siddhnath Bhawan, Lal Kothi, Jaipur.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: ABUPG8823A		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assesseeby : Shri Shrawan Kumar Gupta, Adv. &  
Ms. Lakshita Devra, Adv.

राजस्व की ओरसे / Revenue by : Mrs. Aneeta Rinesh (Addl. CIT)

सुनवाई की तारीख / Date of Hearing : 24/09/2024

उदघोषणा की तारीख / Date of Pronouncement: 24/09/2024

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER

Present appeal has been filed by the Department, ACIT, Circle7, Jaipur, feeling aggrieved by the order dated 25.04.2024, relating to assessment pertaining to assessment year 2017-18.

2. Vide impugned order, Learned CIT(A), NFAC, Delhi allowed the appeal filed by the assessee, while observing that the assessee-appellant

was found to have fulfilled the conditions to claim deduction u/s 54F of the Income Tax Act, 1961 (hereinafter referred to as “the Act”).

3. The assessee was before Learned CIT(A), NFAC feeling dissatisfied with the assessment order dated 16.12.2019 passed by the Assessing Officer, ACIT, Circle-7, Jaipur.

By way of assessment order, the Assessing Officer made addition of Rs. 2,27,07,651/- by way of disallowance of deduction of the said amount claimed u/s 54F of the Act. As per record, the assessee had declared income to the tune of Rs. 84,21,750/-.

4. Arguments heard. File perused.

5. In brief, the facts as available from the assessment order are that the case of the assessee was selected for limited scrutiny (CASS), whereupon notice u/s 143(2) of the Act was issued; said notice was followed by notice u/s 142(1) of the Act, accompanied by questionnaire. The assessee furnished reply to the said notice and also provided details/information required by the Assessing Officer from time to time.

As per assessment order, in the financial year 2016-17, the assessee was found to have sold a property for consideration of Rs. 3,40,00,000/-, and in this regard, the assessee declared net long term capital gain of Rs. 72,62,771/- by claiming deduction of Rs. 2,27,07,651/- u/s 54F of the Act.

As per assessment order, the assessee is stated to have claimed deduction of Rs. 1,81,10,961/- on account of purchase of new residential property i.e. Flat No. 607, 6<sup>th</sup> Floor, A-4, Airport enclave Scheme, Jaipur, in his name and in the name of his wife Smt. Shashi Gupta, jointly.

6. The Assessing Officer observed in the impugned assessment that Shashi Gupta had availed of home loan to the tune of Rs. 1.5 Crore from ICICI Bank on 22.06.2016 for the purchase of new residential property i. e. the above said property, and the loan being still active, payments being made from time to time from the said home loan, the sale consideration received, as mentioned above, could not be said to have been utilized by the assessee for purchase of new residential property.

As a result, the Assessing Officer declined the deduction of Rs. 1,81,10,961/-, said to have been deposited in capital gain account scheme in violation of the provisions of Section 54F of the Act.

7. When the matter came up before Learned CIT(A), NFAC by way of appeal by the assessee, it was observed that the assessee had sold original asset on 03.08.2016 and on that date, he was owning only one house property i.e. 8B, Swastik Moti Doongri Road, Jaipur, and as such, he fulfilled the condition to claim deduction u/s 54F of the Act.

8. Today, when the appeal has been taken up, Ld. DR for the appellant has stated at Bar that this is a matter involving low- tax- effect as per CBDT Circular No. 09 of 2019, dated 17<sup>th</sup> of September, 2024.

9. As per abovesaid circular recently issued by CBDT, the mandatory limit of filing of appeal before the Income Tax Appellate Tribunal is Rs. 60,00,000/-.

Ld. DR for the Department has also candidly submitted at the Bar that the present appeal, as regards mandatory limit are concerned, does not fall in any of the exceptions prescribed in the Circular No.5 dated 15.3.2024 issued earlier.

10. As per Form No.36, total tax effect is Rs. 56,29,880/-. On behalf of the assessee-respondent, calculation of tax has been submitted to depict tax effect.

11. As per CBDT Circular No.09 of 2024 monetary limit for filing appeals before the Income Tax Appellate Tribunal is Rs. 60,00,000/-. Relevant Paras 2, 3 & 5 of said Circular read as under:-

“2. As a step towards management of limitation, it has been decided by the Board to revise the monetary limits for filing of appeals in Income-tax cases as stated in para 4.1 of the aforementioned Circular as follows:-

Sl. No.	Appeals/SLPs in Income-tax matters	Monetary Limit (Tax effect in Rs.)

1.	Before Income Tax Appellate Tribunal	60 lakh
2.	Before High Court	2 crore
3.	Before Supreme Court	5 crore

3. Monetary limits given in paragraph 2 above with regard to filing appeal/SLP shall be applicable to all cases including those relating to TDS/TCS under the Income-tax Act, 1961 with exceptions as per paras 3.1 and 3.2 of Circular No. 5/2024 dated 15.03.2024, where the decision to appeal/file SLP shall be taken on merits, without regard to the tax effect and the monetary limits.”

5. The modifications shall come into effect from the date of issue of this Circular. This Circular will apply to SLP/appeals to be filed henceforth in SC’HCs/Tribunal. It shall also apply to the SLPs/appeals pending before Supreme Court/High Courts/Tribunals, which may accordingly be withdrawn.”

## Result

12. Accordingly, this appeal filed by the department is hereby dismissed as deemed to have been withdrawn due to low tax effect.

File be consigned to the record room after the needful is done by the office.

Order pronounced in the open court on 24/09/2024.

Sd/-

( डॉ. मीठा लाल मीना )

(Dr. MITHA LaL MEENA)

लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 24/09/2024

Sd/-

(नरेन्द्र कुमार)

(NARINDER KUMAR)

न्यायिक सदस्य / Judicial Member

\*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- ACIT, Circle-7, Jaipur.
2. प्रत्यर्धी / The Respondent- Sh. Pradeep Kumar Gupta, Jaipur.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No. 862/JPR/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar