

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI

BEFORE SHRI SAKTIJIT DEY, VP AND SHRI AMARJIT SINGH, AM

ITA No. 2456/Mum/2024
(Assessment Year: 2023-24)

Rahul Dinesh Bajpai House No. 6, Plot No. 60, Krishnakunj Building, N S Road No. 6, Vileparle West, Juhu, Mumbai-400 091	Vs.	Dy. Director of Income Tax CPC, Bengaluru-560 100 Karnataka
PAN/GIR No. ACGPB 8660 FIS		
(Appellant)	:	(Respondent)
Appellant by	:	Ms. Soniya Bhatiya
Respondent by	:	Shri R. R. Makwana
Date of Hearing	:	21.11.2024
Date of Pronouncement	:	27.11.2024

ORDER

Per Saktijit Dey, VP:

This is an appeal by the assessee, against the order dated 09.03.2024 by the learned first appellate authority for the assessment year (A.Y.) 2023-24.

2. The short issue arising for consideration in this appeal is non grant of full TDS credit, claimed in the return of income.

3. Briefly, the facts are, during the year under consideration, the assessee and his wife sold an immovable property jointly owned by them for a total consideration of Rs.1,18,00,000/-. The capital gain arising out of such sale was offered in equal proportion both by the assessee and his wife. However, since the TDS on sale consideration was deposited in the name of the assessee alone, in the return of income filed for the assessment year under dispute, the assessee claimed the entire TDS. While processing the return of income filed by the assessee, the Centralized Processing Centre (CPC) granted credit for TDS in proportion to the capital gain income declared by the assessee and disallowed the claim for the balance TDS.

4. Against the intimation issued by the CPC, though the assessee preferred an appeal before the first appellate authority, however, he was unsuccessful.

5. We have heard the parties and perused the materials on record. Undisputedly, the entire TDS on the sale consideration was remitted to the Government account in the name of the assessee. This fact is clearly evident from Form No. 26AS and the corresponding TDS certificate. Accordingly, the assessee claimed credit of entire TDS. Whereas, in the return of income of assessee's wife, no TDS was claimed. The aforesaid factual position remains uncontroverted before us. Merely because the property was jointly owned by the assessee and his wife and the capital gain arising on sale of property was equally shared by the joint owners, that cannot be the sole reason for disallowing assessee's claim in respect of TDS credit. More so, when it is the assertion of the assessee that his wife has not claimed credit for TDS.

6. In view of the aforesaid, we direct the A.O. to factually verify, whether assessee's wife has claimed any part of the TDS and in case, assessee's claim that his wife has not claimed any part of the TDS is found to be correct, entire TDS credit should be allowed to the assessee.

7. In the result, the appeal is allowed in terms indicated above.

Order pronounced in the open court on 27.11.2024

Sd/-

(Amarjit Singh)
Accountant Member

Mumbai; Dated : 27.11.2024
Roshani, Sr. PS

Sd/-

(Saktijit Dey)
Vice President

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT - concerned
5. DR, ITAT, Mumbai
6. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai