

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : SMC-I : NEW DELHI
BEFORE SHRI R.S. SYAL, ACCOUNTANT MEMBER

ITA No.6391/Del/2016
Assessment Year : 2007-08

Naresh Kumar,
Kirti Karan Goel & Associates,
Opp. Thana Civil Lines,
Near Ambedkar Chowk,
Old G.T. Road,
Karnal.

Vs. ITO,
Ward-3,
Karnal.

PAN: DCTPK7960R

ITA No.6389/Del/2016
Assessment Year : 2007-08

Late Shri Prem Singh Through
legal Heir Shri Raj Kumar,
Kirti Karan Goel & Associates,
Opp. Thana Civil Lines,
Near Ambedkar Chowk,
Old GT Road,
Karnal.

Vs. ITO,
Ward-5,
Karnal

(Appellant)

(Respondent)

Assessee By : Shri Kirti Karan Goel, Advocate
Department By : Ms Bedobina Chaudhuri, Sr. DR

Date of Hearing : 27.02.2017
Date of Pronouncement : 28.02.2017

ORDER

These two appeals filed by different assessees are against the orders passed by the CIT(A) on 07.10.2016 in relation to the assessment year 2007-08. Since common issue is raised in these appeals, I am, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

ITA No.6391/Del/2016

2. The only issue raised in this appeal is against the denial of deduction u/s 54B for the purchase of new property by the transferor in the name of his wife, Smt. Kanta Devi.

3. Briefly stated, the facts of the case are that the assessee sold certain land on which long term capital gain was earned. The assessee purchased, *inter alia*, an agricultural land worth Rs.31,10,640 in the name of his wife, Smt. Kanta Devi. The AO denied the benefit of section 54B for purchase of agricultural land in the name of his wife. The Id. CIT(A)

affirmed the same. The assessee is aggrieved against the denial of deduction u/s 54B.

4. I have heard the parties and perused the relevant material on record. There is no dispute that the new property was purchased by the assessee in the name of his wife Smt. Kanta Devi. It is observed that there is a cleavage of opinion amongst the Hon'ble High Courts on the question of grant of benefit u/s 54B etc. when new property is purchased by the transferor in his own name with another or exclusively in the name of another. Whereas the Hon'ble Punjab & Haryana High Court in *CIT vs. Dinesh Verma (2015) 233 Taxmann 409 (P&H)* has held that the benefit of deduction cannot be allowed when a new property is purchased in the name of wife, the Hon'ble Delhi High Court in *CIT vs. Kamal Wahal (2013)351 ITR 4 (Del)*, has held that deduction u/s 54F cannot be denied if the property is not purchased in own name. Since the assessee falls within the jurisdiction of the Hon'ble Punjab & Haryana

High Court, respectfully following the precedent in *Dinesh Verma (supra)*, I hold that the assessee was not right in claiming the benefit of section 54B in purchasing new property in the name of his wife. The impugned order is upheld to this extent.

ITA No.6389/Del/2016

5. Both the sides are in agreement that the facts and circumstances of this appeal are, *mutatis mutandis*, similar to the earlier appeal. In fact, no separate submissions were advanced by the either side. Following the view taken hereinabove, I uphold the impugned order to the extent of denial of the benefit u/s 54B.

6. In the result, both the appeals are dismissed.

The order pronounced in the open court on 28.02.2017.

Sd/-

[R.S. SYAL]
ACCOUNTANT MEMBER

Dated, 28th February, 2017.

dk

Copy forwarded to:

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

AR, ITAT, NEW DELHI.