

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री विजय पाल रॉव, न्यायिक सदस्य एवं श्री भागचन्द, लेखा सदस्य के समक्ष
BEFORE: SHRI VIJAY PAL RAO, JM & SHRI BHAGCHAND, AM

आयकर अपील सं./ITA No. 741/JP/2018
निर्धारण वर्ष / Assessment Years : 2015-16.

The Income Tax Officer, Ward-1, Kishangarh.	बनाम Vs.	Smt. Suman Jain, Flat No. 401, 10-2243/244, Meghana Shanti Residency, Road No. 6, West Marredpelly, Secunderabad, Hyderabad- 500 026.
स्थायी लेखा सं./जीआईआर सं./PAN No. AEVPJ 8603 F		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

राजस्व की ओर से / Revenue by : Shri P.P. Meena (JCIT)

निर्धारिती की ओर से / Assessee by : None

सुनवाई की तारीख / Date of Hearing : 20.07.2018.
घोषणा की तारीख / Date of Pronouncement : 24/07/2018.

आदेश / ORDER

PER VIJAY PAL RAO, J.M.

This appeal by the revenue is directed against the order dated 28TH March, 2018 of Id. CIT (A), Ajmer for the assessment year 2015-16. The revenue has raised the following grounds of appeal :-

“ On fact and in law, the Id. CIT (A) Ajmer erred in :-

1. Deleting the addition of Rs. 39,77,696/- made u/s 68 of the I.T. Act, 1961 on account of bogus claim of LTCG u/s 10(38) and addition of Rs. 39,777/- made u/s 69C of the I.T. Act for arranging accommodation entries of bogus LTCG, without appreciating the facts of the case and modus operandi of the scheme which clearly

prove that all the transactions were sham transactions and used as a colorable device to create documentary evidences for converting unaccounted money into tax exempt income ;

2. Deleting both the additions without appreciating the fact that the assessee made bogus claim of LTCG by availing accommodation entries in listed companies controlled by Shri Praveen Kumar Agarwal who accepted on oath that he was indulged in providing bogus LTCG/STCL entries and the director of M/s. PS IT Infrastructure & Services Limited was one of the beneficiaries. The Director of M/s. PS IT Infrastructure & Services Limited also admitted that this company is a paper company;
3. The appellant craves to add, amend, alter, delete or modify the above ground of appeal before or at the time of hearing."

Thus it is clear from the grounds raised by the revenue that the revenue is challenging the relief granted by the Id. CIT (A) of Rs. 39,77,696/- on account of addition made under section 68 and further Rs. 39,777/- on account of addition made under section 69C. Hence the total addition which was deleted by the Id. CIT (A) was about Rs. 40.17 lacs and therefore, the tax effect in the appeal of the revenue is not exceeding Rs. 20 lacs.

2. The Id. D/R has fairly submitted that the tax effect involved in the Revenue's appeal is less than 20 lacs which is prescribed threshold limit in terms of the CBDT Circular No. 3/2018 dated 11th July, 2018 issued in supersession of its earlier Circular No. 21 of 2015 dated 10.12.2015.

3. We have heard the Id. D/R and perused the materials available on record. It is observed that the demand/ tax effect in the Revenue's appeal in question is below Rs. 20.00 lacs . Under the powers vested by section. 268A(1) of the I T Act, CBDT has recently issued Circular No. 3/2018 dated 11th July, 2018 (F No.

279/Misc. 142/2007-ITJ(Pt) instructing the authorities below that departmental appeal should not be filed before ITAT where the demand/tax effect does not exceed Rs. 20 lacs. The circular is specifically mentioned to be applicable for all pending appeals.

4. Subject to some exceptions, it is further directed by CBDT that all the departmental appeals pending before ITAT where the demand/tax effect is not exceeding than 20 lacs should be either withdrawn or not pressed by the departmental representatives.

5. The present appeal is not covered by any exceptions mentioned in the said CBDT circular. Since the tax demand in dispute in this departmental appeal is below the limit set out by CBDT for the appeal, the appeal of the assessee is not maintainable in view of CBDT Circular No. 3 of 2018 dated 11.07.2018. Accordingly the appeal of the Department is dismissed as not pressed/withdrawn.

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

Order pronounced in the open court on 24/07/2018.

Sd/-
(भागचन्द)
(BHAGCHAND)
लेखा सदस्य / Accountant Member
जयपुर / Jaipur

Sd/-
(विजय पाल राँव)
(VIJAY PAL RAO)
न्यायिक सदस्य / Judicial Member

दिनांक / Dated:- 24/07/2018.

das/

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

1. अपीलार्थी / The Appellant-The ITO Ward-1, Kishangarh.
2. प्रत्यर्थी / The Respondent Smt. Suman Jain, Secundrabad-Hyderabad.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त / CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File {ITA No. 741/JP/2018}

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar