
(2011) 05 DEL CK 0293
In the Delhi High Court
Case No : IT Appeal No. 779 of 2011

Bela Juneja

APPELLANT

Vs

CIT

RESPONDENT

Date of Decision : 23-05-2011

Acts Referred:

Income Tax Act, 1961 — Section 132, 153(A), 153(C), 69

Citation : (2011) 243 CTR 397 : (2011) 339 ITR 144

Hon'ble Judges : M.L. Mehta, J;A.K. Sikri, J

Bench : Division Bench

Advocate : Rakesh Gupta, for the Appellant; Kamal Sawhney, for the Respondent

Final Decision : Dismissed

Judgement

M.L. Mehta, J.—A search and seizure operation was carried out on 22-9-2005 u/s 132 of the IT Act, 1961 at the premises of Shri Pravin Juneja at E-47, Greater Kailash-II, New Delhi and during the course of said search documents relating to sale and purchase of property were found. In those documents transaction had been carried out in the name of his wife Smt. Bela Juneja/appellant.

2. Notice u/s 153A/153C of the IT Act was issued calling upon the appellant/ assessee to furnish return. In response thereto, she furnished return of her income declaring her total income of Rs. 2,83,546. The documents which were seized included, (i) balance sheet and statement of capital accounts of Smt. Bela Juneja and Pravin Juneja as on 31st March, 2002. (ii) receipt dt. 18-10-2004 issued by S.C. Sharma of Rs. 1 lakh received in cash from Smt. Bela Juneja.

3. The AO noted that the assessee had purchased property bearing 40/43, Chittranjan Park, 2nd Floor terrace and as per the sale deed the consideration was Rs. 8,45,600 (Rs. 45,600 was towards cost of stamp papers). During the course of proceedings an agreement dt. 20-10-2004 executed between Shri A.B. Singh, owner, and Shri Pravin Juneja for the purchase of the said property was found. As per this agreement, the property was agreed to be sold for

consideration of Rs. 31 lakhs by Shri A.B. Singh on 20-10-2004. An amount of Rs. 1 lakh was shown to have been received by the vendor in cash and Rs. 15 lakhs was paid on 25-10-2004 and balance Rs. 15 lakhs was to be paid on or before 30-10-2004 at the time of handing over of the possession. However, the sale deed was registered in the name of assessee on 27-10-2004 for Rs. 8 lakhs. The assessee had not furnished any plausible explanation for the difference between agreed price of Rs. 31 lakhs and actual price as per sale deed of Rs. 8 lakhs. The AO held that difference of Rs. 22,54,400 as unexplained investment u/s 69 of the Act.

4. The CIT(A) dismissed the appeal of the assessee. While doing so, the CIT(A) gave following reasons :

From the above description of the property in the sale deed, it cannot be said that the second floor and terrace over the second floor is unauthorized construction. Thus, the appellant has not adduced any cogent evidence to suggest the reasons for reduction in the purchase price from Rs. 31 lakhs as agreed vide agreement dt. 24-10-2004 to Rs. 8 lacs shown in the deed registered on 29-10-2004. By considering the surrounding circumstances and also applying the test of human probability, it is clear that the appellant had paid a total consideration of Rs. 31 lacs, whereas the sale deed was registered only for Rs. 8 lacs. The very fact that the amount of Rs. 1 lakh in cash paid on 20-10-2004 was not adjusted against purchase consideration of Rs. 8 lacs shown in registered deed, where the total payment of Rs. 8 lacs was shown to be made by three cheques only clearly shown that the appellant has paid the excess amount over and above the amount shown in the sale deed. Hence, the AO was justified in making an addition of Rs. 22,54,400 (it should have been Rs. 23 lacs i.e. difference between Rs. 31 lacs and Rs. 8 lacs) as unexplained investment towards the acquisition of property No. 40/43, Chittranjan Park (2nd Floor with terrace), New Delhi. Hence the addition of Rs. 22,54,400 is confirmed.

5. The Tribunal while agreeing with CIT(A), recorded as under :

Coming to the material available on record, enough evidence was found by the lower authorities pertaining to assessee from the premises in which she was living that the above payment in respect of property was made by her. The same has neither been accounted for nor assessee has given any satisfactory reply about the investment in question. In view thereof, we see no infirmity in the orders of lower authorities. Accordingly, order of CIT(A) sustaining the addition in question is upheld.

6. We have heard learned counsel for the assessee as also for the revenue.

7. No question of law could be pointed out by learned counsel for the assessee for our consideration. These were all questions of facts on which the findings have been recorded by the authorities below. There is no perversity or infirmity in the impugned order. There is no question of law involved, much less substantive question of law. The appeal merits dismissal and is hereby dismissed.