

Mr Vinod Soni and Ors. V/s ITO, TDS-Ward, Faridabad.

ITA No 2736 to 2739/Del/2015 decided by ITAT, New Delhi on 10-12-2018

TDS @ 1% from sales consideration on purchase of immovable property u/s. 194-IA of Income-Tax Act, 1961 is to be deducted qua assessee, and not qua sale deed.

1. Facts:

- i. Mr. Vinod Soni, Ms. Babli Soni, Ms. Beena Soni and Mr. Pradeep Kumar Soni of the same family (for short ‘the purchasers’) purchased an immovable property vide single registered sale deed dated 03-07-2013 for Rs. 1,50,00,000/- where each purchaser paid their respective equal share of Rs. 37,50,000/- to the seller, without deducting TDS @ 1% u/s. 194-IA of the Income-Tax Act, 1961 (for short ‘the Act’).
- ii. The Assessing officer (for short ‘AO’) held that the purchasers were required to deduct TDS @ 1% u/s. 194-IA, as total sale consideration for the immovable property is Rs 1,50,00,000/-, which is in excess of thresh hold limit of Rs. 50 Lakhs prescribed under sub-section (2) of Section 194-IA of the Act.
- iii. The AO invoked the provisions of Section 201(1) of the Act and held that the purchasers were assesseees-in-default and were required to pay TDS of Rs. 1,50,000/-, being 1% of total sale consideration of Rs. 1,50,00,000/-. The AO also invoked the provisions of Section 201(1A) of the Act and ordered the purchasers to pay interest of Rs. 27,000/-.
- iv. The CIT (A) passed an ex-parte order against the purchasers to pay TDS of Rs. 1,50,000/- u/s. 201(1) of the Act and pay interest of Rs 27,000/- u/s. 201(1A) (ii) @ 1.5% p.m.
- v. Aggrieved with CIT(A)’s order, the purchasers filed appeal before Hon’ble ITAT, New Delhi.

2. Issues under consideration before the Hon'ble ITAT, New Delhi.

One of the questions before the Hon'ble Tribunal was whether the provisions of deduction of TDS u/s. 194-IA are applicable qua each assessee, each of whom have paid purchase consideration of Rs. 37,50,000/- being less than Rs. 50,00,000/-, or qua the sale deed, the consideration as per which is Rs. 1,50,00,000.

3. Held

The Hon'ble ITAT held as follows:

- i. Section 194 –IA (1) of the Act is applicable on any person being a transferee. Hence, even section 194-IA(2) of the Act would be applicable w.r.t. the amount related to each transferee, and not w.r.t. total sale consideration as per sale deed.
- ii. The law cannot be interpreted and applied differently for the same transaction, if carried out in different ways. The Hon'ble ITAT noted that if the four purchasers had entered into separate agreements, the provisions of section 194-IA would not have triggered. Hence, said provisions would not become applicable merely because the parties entered into a single agreement.
- iii. Accordingly, it was held that the threshold limit of Rs 50,00,000/- as provided by Section 194 –IA (2) of the Act is applicable qua each purchaser, even though there is a single sale deed through which four purchasers purchased a single immovable property.

Comments

This is a welcome decision, which would be applicable in case of joint purchase of immovable properties.