

2025:PHHC:132726-DB



**115 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CM-9546-47-CII-2025 in/and  
ITA-52-2025  
Date of Decision: September 22, 2025**

**THE PRINCIPAL COMMISSIONER OF INCOME TAX, FARIDABAD  
..... Appellant**

**Versus**

**DHARAMPAL SINGH HUF ..... Respondent**

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MRS. JUSTICE RAMESH KUMARI**

Present: Ms. Pridhi Sandhu, Advocate for the appellant.

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**LISA GILL, J.**

1. Prayer in this appeal is for setting aside order dated 20.01.2023 passed by Income Tax Appellate Tribunal, Delhi Bench 'H', New Delhi (for short – 'ITAT') in ITA No. 3047/DEL/2017 for AY 2013-14.

2. Brief facts of the case are that twenty seven (27) appeals relating to five closely related family members, including the HUF (hereinafter referred to as – 'Assessees') as well as those filed by Revenue were decided by learned ITAT vide impugned order dated 20.01.2023. All the appeals arose out of common order dated 03.03.2017 passed by CIT(A)-I, Gurgaon pertaining to Assessment Year 2007-08, 2010-11, 2011-12, 2012-13 and 2013-14. Search and

seizure operation was carried out under Section 132 of Income Tax Act, 1961 (for short – ‘the Act’) on 23.11.2012 in the case of M/s CHD Developers Pvt. Ltd. In the course thereof, some incriminating material including collaboration agreement dated 13.02.2010 was seized. Based upon such information/material discovered during search and seizure operation as above, survey action under Section 133A of the Act was conducted at the office premises of M/s Roots Developer Pvt. Ltd., a company stated to be carrying on real estate projects. In course thereof, another collaboration agreement dated 17.07.2006 was found from which it emerged that assesseees in question were owners of land measuring 16.46 acres of village Fazilpur, Jhasra, Sector 70A, Gurgaon. It is further stated that assesseees in question alongwith M/s Roots Developer Pvt. Ltd. intended to develop group residential housing project. Directorate of Town Planning, Haryana granted licence for development of project to said assesseees. Subsequently M/s CHD Developers Pvt. Ltd. got the plot of land from assesseees and sold their allotted unit on their behalf. Amount collected on sale of land was paid to assesseees through M/s Roots Developers Pvt. Ltd. Assessing Officer on the basis of seized/impounded documents and other materials on record found that though substantial amounts were received by assesseees on sale of land but in their Income Tax Returns filed for different assessments years, concerned assesseees had not offered the income. Accordingly, assessments were re-opened under Section 147 of the Act in all cases. Collaboration agreement had been executed between assesseees and M/s Roots Developer Pvt. Ltd. with M/s CHD Developers Pvt. Ltd. wherein M/s CHD Developers Pvt. Ltd. agreed to pay a sum of Rs.25 crores to M/s Roots Developer Pvt. Ltd. as non-refundable and non-adjustable deposit. Additionally, M/s CHD Developers Pvt. Ltd. agreed that

share of said assesseees and M/s Roots Developer Pvt. Ltd. would be 34.5% of saleable area. Assesseees in terms of collaboration agreement with M/s CHD Developers Pvt. Ltd. received amounts towards their share in saleable area, which was not offered to tax. Assesseees were called upon in re-assessment proceedings to explain the reason for not offering this amount received from M/s CHD Developers Pvt. Ltd. Assessing Officer. While not finding any merit in the objections raised by assesseees, Assessing Officer proceeded to complete the assessment in their case as well M/s Roots Developer Pvt. Ltd. in different assessment years by making additions as under:-

Name	AY 2007-08	AY 2010-11	AY 2011-12	AY 2012-13	AY 2013-14
Dharampal (HUF)	R.I ACCEPTED		B.1=21,59,72,826 C.G=5,04,85,812	B.1=7,89,86,037	B.1=16,74,56,952
Surander Yadav	R.I ACCEPTED		B.1=2,87,18,749 C.G=94,91,400	B.1=1,41,46,022	B.1=3,12,40,420
Smt. Roshni Devi W/o Lt. Sh/ Phool Singh Yadav	R.I ACCEPTED		B.1=25,90,06,971 C.G=6,94,68,611	B.1=10,87,06,354	B.1=23,04,66,490
Virender Singh	R.I ACCEPTED		B.1=2,62,18,749 CG=94,91,400	B.1=1,30,84,570 C.G=94,850	B.1=3,12,40,420
M/s Roots Developers P Ltd		B.1= 13,00,00,000	B.1=12,00,00,000		
Dharampal Singh Yadav	R.I ACCEPTED				

3. Assesseees as well as M/s Roots Developer Pvt. Ltd. filed appeals before First Appellate Authority, upon which Commissioner (Appeals) directed Assessing Officer to assess entire income in Assessment Year 2010-11 and in case of M/s Roots Developer Pvt. Ltd., Assessing Officer was directed to make additions in Assessment Years 2010-11, 2011-12, 2013-14, 2014-15, 2015-16 and 2016-17. Additions made in respect of assesseees and M/s Roots Developer

Pvt. Ltd. as tabulated in order dated 03.03.2017 passed by Commissioner (Appeals) reads as under:-

Name	AY 2007-08	AY 2010-11	AY 2011-12	AY 2012-13	AY 2013-14	AY 2014-15	AY 2015-16	AY 2016-17
Dharampal (HUF)	No addition	27,21,71,812 C.G.	No addition	No addition	No addition			
Surander Yadav	No addition	5,11,53,900 C.G.	No addition	No addition	No addition			
Smt. Roshni Devi w/o Lt. Sh. Phool Singh Yadav	No addition	37,44,79,611 C.G.	No addition	No addition	No addition			
Virender Singh	No addition	5,11,53,900 C.G.	No addition	No addition	No addition			
M/s Roots Developers P. Ltd.	-	12,00,00,000 B.I.	13,00,00,000 B.I.		2,55,73,814 B.I.	8,37,00,000 B.I.	3,96,00,000 B.I.	1,00,00,000 B.I.
Dharampal	No addition	NA	NA	NA	NA			

4. Commissioner (Appeals) vide order dated 03.03.2017, thus, directed additions in Assessment year 2010-11 in respect to assessee, while in the case of M/s Roots Developer Pvt. Ltd., additions were to be made in six different assessment years. In compliance thereof, Assessing Officer passed Assessment Orders in respect to respondent No. 1 and other family members by making additions in Assessment Year 2010-11. This was contested by filing appeals before Commissioner (Appeals).

5. During pendency of appeals before First Appellate Authority, assessee filed declarations under the Direct Tax Vivad Se Viswas Scheme, 2020 for settling the dispute. Declarations filed under Scheme were accepted and payment of requisite tax computed. Admittedly, dispute was settled with issuance of Form 5 by competent authority. In the meanwhile, appeals had been filed by Department as well as Assessee against common order dated 03.03.2017 passed by CIT(A)-I, Gurugram. Said appeals were dismissed by learned ITAT vide impugned order dated 20.01.2023 with the observation that

once dispute between Assessee and Department qua issue of taxability of amount received on sale of land had been settled under Vivad Se Viswas Scheme, 2020, appeals filed by both assessee and revenue are of mere academic importance, hence infructuous. It is specifically observed that dispute between the Department and M/s Roots Developer Pvt. Ltd. still subsists as the same was not settled under the Scheme in question and that decision of appeals in question would have no impact whatsoever on pending appeals of M/s Roots Developer Pvt. Ltd., which would be decided on its own merits.

6. Aggrieved therefrom, Department has preferred appeal in one of the cases pertaining to respondent – Dharampal Singh HUF though learned counsel for appellant during the course of hearing stated that appeals against other assessee were also in the pipeline. It is argued that appellant has filed appeal before ITAT in respect to issue of taxability of amounts/receipts under head of Capital Gain or Business Income. Learned Tribunal, it is submitted, was not justified in dismissing the appeal filed by Department without deciding issue of taxability of amounts received by Assessee for Assessment Years in question and restricting it to Assessment Year 2010-11 only. Basic issue of amounts being taxable as business income and capital income gain could not have been resolved in Vivad Se Viswas Scheme, therefore, dismissal of appeal by learned ITAT is illegal and unjustified.

7. It is submitted that following substantial questions of law arise for consideration in this appeal:-

“(i) Whether the ITAT was justified in dismissing the appeal of the appellant since the issue of taxability of amount received by the respondent was the subject matter of dispute before Ld. ITAT?

(ii) Whether the ITAT was justified in dismissing the Appeal of the appellant in so far the issue of taxability of amounts receipts under the head of Capital Gain or Business Income has not been adjudicated upon by the Ld. ITAT?

(iii) Whether the ITAT was justified in dismissing the Appeal of the appellant without deciding the issue of taxability of the amounts received by the Assessee under the respective years and not restricting it to the year i.e. A.Y. 2010-2011?"

8. It is, thus, prayed that this appeal be allowed.

9. We heard learned counsel for appellant and have perused the file. Factual aspect, as narrated in the foregoing paras in respect to search and seizure operations leading to re-assessment proceedings being initiated and culminating in order dated 30.03.2016 by Assessing Officer; order dated 03.03.2017 passed by Commissioner (Appeals) and order dated 20.01.2023 passed by learned ITAT, is a matter of record.

10. It is further a matter of record that dispute has been settled under Vivad Se Viswas Scheme 2020 floated by Department itself. Requisite tax demand was duly computed by competent authority and upon payment of said tax demands, competent authority has accepted declarations filed by Assesseees including respondent No. 1 and issued Form 5 in its favour. Learned counsel for appellant has not disputed the same.

11. In the given facts and circumstances, it is not understandable as to how present appeal qua one of the assesseees who has settled the matter under a Scheme floated by the Department itself came to be filed. On one hand department prompted settlement of dispute under Vivad Se Viswas Scheme 2020 and on the other seeks to continue the proceedings in respect to the same

assessments. Learned ITAT in impugned order dated 20.01.2023 in this respect has specifically observed as under:-

“ 12. We have considered rival submissions and perused material on record. As discussed earlier, while completing assessment in respect of present appellants as well as M/s Roots Developer Pvt. Ltd., the Assessing Officer had made the additions on account of amount received towards share in sale of land in different Assessment Years. However, while deciding the appeals filed by the present appellants as well as M/s Roots Developer Pvt. Ltd., learned Commissioner (Appeals) directed the Assessing Officer to consolidate all the additions made in respect of the present appellants in different Assessment Years and make the additions in Assessment Year Assessment 2010-11. It is a fact on record that while implementing the aforesaid directions of learned First Appellate Authority, the Assessing Officer has passed fresh Assessment Orders in respect of the present appellants by making substantive additions, which were made in different Assessment years, in a single Assessment Year i.e. Assessment Year 2010-11. Against the Assessment Orders so passed, the appellants went in appeal before learned Commissioner (Appeals). During the pendency of the appeals before learned First Appellate Authority, appellants have filed declarations under Vivad-se-Viswas Scheme and paid the requisite tax demand computed by the competent authority. On payment of tax demands, the competent authority has accepted the declarations filed by the appellants and issued Form 5 in favour of the appellants. This is evident from the copies of Form 3 and Form 5 filed before us. In fact, learned Departmental Representative has accepted the aforesaid factual position.

13. Thus, as on date, the dispute between the appellants and revenue in the matter of taxability of amount received from M/s CHD Developer Pvt. Ltd. on sale of land stands settled under Vivad-se-Viswas Scheme. Nothing further remains to be decided in

the present appeals. It is also necessary to observe, the dispute between the department and M/s Roots Developer Pvt. Ltd. still subsists as it has not been settled under the Vivad-se-Viswas Scheme. The decision taken in the present appeals will have no impact on the pending appeals of M/s Roots Developer Pvt. Ltd. which have to be decided on their own merits. Therefore, the apprehension of learned Departmental Representative, in our view, is unfounded. Thus, considering the fact that the dispute between the present appellants and the department qua the issue of taxability of amount received on sale of land has been settled under the Vivad-se-Viswas Scheme, in our view, the present appeals filed both by the assessee and the revenue are of mere academic importance, hence infructuous. Therefore, we dismiss all these appeals.

14. Before parting, we must observe, the appeal in ITA No. 3093/Del/2017 filed in case of Dharampal Singh, individual has also become infructuous, as, while completing the assessment the Assessing Officer has accepted the returned income and no addition was made.

15. In the result, all the appeals are dismissed.”

12. In the given factual matrix, we find present appeal to be entirely misconceived and a fit case for imposition of cost. However, learned counsel for appellant fervently urged that cost may not be imposed.

13. At this stage, we take note of the fact that there is a delay of 70 days in filing of this appeal on the ground that due to change in staff of appellant, file was not traceable. There is further delay of 481 days in re-filing this appeal on the premise that file had been sent back to officer of Principal Commissioner, Income tax, Faridabad and then office at Gurugram for removal of objections raised by Registry and upon receipt thereof, appeal was re-filed

leading to day of 481 days in re-filing the appeal. We do not find any cogent or sufficient reason for condoning the delay as well.

14. No question of law whatsoever much less substantial question of law arises for consideration in the appeal.

15. Keeping in view facts and circumstances as above, this appeal alongwith applications seeking condonation of delay in re-filing and filing the appeal being devoid of any merit are, accordingly, dismissed. It is upon fervent request of learned counsel for appellant that we refrain from imposing cost in this case.

**(LISA GILL)**  
**JUDGE**

**(RAMESH KUMARI)**  
**JUDGE**

**September 22, 2025**

Rts

Whether speaking/reasoned: Yes/No  
Whether reportable: Yes/No