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Delhi High Court Ruling clarifies concept of income from property and the interest of a person in the property**RAJI NATHANI**

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Background and Context

It is common in India for residential properties to be purchased jointly by spouses—usually in the name of both husband and wife. However, in many such cases, the wife is named only for convenience or legal ease, while the husband makes the entire investment. Despite this, income tax notices are frequently served to the wife asking her to justify the source of investment, merely because her name appears in the sale deed. This creates unnecessary stress and legal complications.

Landmark Judicial Pronouncement

In a significant ruling—*Smt. Shivani Madan v. Principal CIT* [2025] 171 taxmann.com 347 (Delhi)/[2025] 303 Taxman 571—the Delhi High Court has clarified a crucial legal position. It held that a person who is merely a signatory in a property registration document, and who has neither made any investment nor received any benefit from the property, should not be held liable to tax on that account.

This judgment reinforces a sound legal precedent that can prevent the misuse of tax provisions against taxpayers.

Facts of the Case

- The assessee was listed as a joint owner of a property with her husband.
- The sale deed did not specify the ownership ratio.
- The Assessing Officer therefore presumed a 50:50 ownership and taxed the assessee on 50% of rental income.
- The assessee contended that her husband was the actual investor and beneficiary.

Upon examining the case in light of Sections 26 and 27 of the Income-tax Act, 1961, and the Supreme Court judgment in *CIT v. Podar Cement (P.) Ltd.* [1997] 92 Taxman 541/226 ITR 625 (SC), the Delhi High Court ruled as under:

"As is manifest and evident from a reading of those provisions, the Act fails to raise any presumption in law, of income necessarily arising or being liable to be assessed in the hands of an individual merely because it be a signatory to an instrument of conveyance. In our considered opinion, the question of taxability would necessarily have to be answered bearing in mind the individual who had in fact obtained benefits from the property."

In the case of *Commissioner of Income-tax v. Ajit Kumar Roy* [2002] 121 Taxman 248 (Calcutta)/[2001] 252 ITR 468 (Calcutta)/[2001] 170 CTR187 (Calcutta) [28-06-2001] it is also held when the entire investment was made by the husband and simply the flat was in the name of wife, in such case, the income from that property should be taxed in the hands of the husband and not in the hands of his wife. Reiterating the law laid down by the Supreme Court in *CIT v. Podar Cement (P.) Ltd.* [1997] 226 ITR 625/92 Taxman 541 it is held that the object of the Act is to tax the income in the hands of real owner, the owner being the person who is entitled to receive income from the property in his own right. To the same effect is the decision of the Mumbai bench of Income Tax Appellate Tribunal in the case of *Vinod Nihalchand Jain Ltd. v. ITO* [2025] 172 taxmann.com 581 (Mumbai - Trib.).

It was held, "We are conscious of the settled position that under the common law owner means a person who has got valid title legally conveyed to him after complying with the requirements of law such as Transfer of Property Act, Registration Act etc. But in the context of Section 22 of the Income Tax Act having regard to the ground realities and further having regard to the object of the Income Tax Act, namely, "to tax the income", we are of the view, owner is a person who is entitled to receive income from the property in his own right." It was thus pertinently observed that the question of ownership would have to be answered in light of the aforesaid. As was aptly observed, **the Act seeks to tax income derived from house property as distinct from an interest in property**. It must be remembered that Section 9 brings to tax the income from property **and not the interest of a person in the property**. A property cannot be owned by two persons, each one having independent and exclusive right over it. Hence, for the purpose of Section 9, the owner must be that person who can exercise the rights of the owner, not on behalf of the owner but in his own right.

The limited question dealt was "who should be taxed on the income from property" and in my opinion it should not be confused with the question "who is the legal owner of the property" the legal ownership stays intact with or without the income from property.

Recommendation for Amendments to ITR Forms

The Delhi High Court pointer highlighted/underlined in the above desire for an urgent need to revise the Income Tax Return (ITR) forms to accommodate the following disclosures:

1. Joint Ownership Clarification: Where property or assets of any kind, whether movable or immovable, is jointly held, taxpayers should be required to declare the proportion of beneficial ownership, along with the identity of the co-owners
2. Name of Actual Owner: Where an individual is named in a property deed merely as a signatory, the ITR form should allow for disclosure of the real owner who has funded the investment and enjoys its benefits.

Safeguard Against Frivolous Scrutiny

These disclosures would help avoid unnecessary notices based on mere information from the property registrar. Such modest yet meaningful amendments to the ITR forms would go a long way in reducing unwarranted litigation, easing taxpayer compliance, and aligning tax procedures with judicial interpretation. It is time that the ITR framework evolves to reflect practical realities and legal clarity provided by the Courts from time to time.

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