

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

I.T.A. No.932 of 2008 (O&M)
Date of decision: 06.11.2009

Commissioner of Income Tax.

-----Appellant

Vs.

Shri Pritam Singh Chahil.

-----Respondent

**CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE GURDEV SINGH**

Present:- Ms. Urvashi Dhugga, Standing Counsel
for the revenue.

ORDER:

1. The revenue has preferred this appeal under Section 260A of the Income Tax Act, 1961 (for short, "the Act") against the order dated 25.5.2007 of Income Tax Appellate Tribunal, Chandigarh Bench 'B' in I.T.A. No.734/Chandi/2003 for the assessment year 1997-98, proposing to raise following substantial question of law:-

"Whether in the facts & circumstances of the case, the Ld. ITAT was right in law in not appreciating the fact that as per the mandate of section 27(iii)(b) read with sub-clause (f) of Sec.269UA of the Income Tax Act, the assessee is "owner of the leased property" and is therefore, not entitled for deduction u/s 54F of the Income Tax Act."

2. The assessee is HUF and after return for assessment had been processed under Section 143(1)(a) of the Act, re-assessment proceedings were initiated on account of alleged erroneous claim of the assessee under Section 54-F for purchase of flat at Delhi after sale of other property. The claim was disallowed on the ground that the assessee owned a house at Kasauli. On appeal, the CIT(A) upheld the plea of the assessee that house at Kasauli was owned in individual capacity by Pritam Singh and not as HUF and that even though in wealth tax return for the assessment year 1994-95, the said property was shown as self-occupied, this aspect had been duly explained by the assessee and statement in the said return was shown to be incorrect. The CIT(A) observed as under:-

“.....The assessing officer has taken the shelter of the proviso to section 54F and the fact that the assessee has shown in the A.Y. 1994-95 the house at Kasauli in his wealth tax return. This is not sufficient evidence considering the other facts. The assessee himself is admitting the mistake of showing the property in his wealth tax statement in 1994-95 due to ignorance of the status. The land and Kasauli building have been sold in 1997. It cannot be said that the assessee had deleted the property from the statements later on as a pre-conceived mind to get the benefit of the deduction u/s 54F in 1997.”

4. The above finding has been affirmed by the Tribunal.
5. We have heard learned counsel for the appellant.
6. In view of concurrent finding of fact recorded by the CIT(A) and the Tribunal that house at Kasauli was owned by the assessee in individual capacity and not in capacity as HUF, no substantial question of law arises.
7. The appeal is dismissed.

**(ADARSH KUMAR GOEL)
JUDGE**

**November 06, 2009
ashwani**

**(GURDEV SINGH)
JUDGE**