

# Private Parties can't apportion Income Tax Liabilities By Private Agreements: Delhi High Court

Rajeev Behl Vs PCIT (Delhi High Court)

Appeal Number : W.P.(C) 7869/2021 & CM APPL. 24474-475/2021

Date of Judgement/Order : 24/09/2021

## Fact of the Case

1. Mr. Salil Aggarwal, the counsel for the petitioner, Rajiv Bhel stated that no action to recover the demand from the Realtech Group of Companies had been taken by the Assessing Officer.
2. He also stated that the three Directors of Realtech group of companies had agreed amongst themselves that the tax liabilities of the Realtech Group would be borne by one of the directors, namely, Mr. Pankaj Dayal and therefore the recovery against the petitioner was bad in law.
3. In support of his contention, senior counsel for the petitioner relied upon the MOU by which the tax liabilities of the Realtech Group of Companies were assumed by one of the Directors by way of a private arrangement between the Directors of the company of the various companies of Realtech Group and later affirmed by an Arbitral Award which was subsequently upheld by this Court.
4. On the other hand, the counsel for the respondents submitted that the present petition was an abuse of process of law as the petitioner was seeking to settle his private scores with different parties through the income tax department.
5. According to him, on this ground alone, the petition deserves to be dismissed with costs.

## Decision of the Case

1. The division bench of Justice Manmohan and Navin Chawla held that the MOU, Settlement Deed, and an Arbitral Award govern rights in personam and cannot bind a statutory authority like the respondent-Revenue.
2. It is settled law that while rights in personam are arbitrable, rights in rem are unsuited for private arbitration and can only be adjudicated by the Courts or Tribunals.