

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: 5SMC6: NEW DELHI
BEFORE SHRI R.S. SYAL, VICE PRESIDENT

ITA No. 668/Del/2018
Assessment Year: 2009-10

Sh. Vijay Pal
747, Soti Ganj, Meerut

Vs. ITO, Ward-2(4)
Meerut

PAN: BMTPP2792Q

(Appellant)

(Respondent)

Assessee By : Sh. V.K. Goel, AR
Department By : Sh. B.R. Mishra, Sr. DR

Date of Hearing : 20.06.2018
Date of Pronouncement : 21.06.2018

ORDER

PER R.S. SYAL, VP:

This appeal by the assessee is directed against the order passed by the learned CIT(A), Meerut on 13.12.2017 in relation to assessment year 2009-10.

2. Ground nos. 1 and 3 concerning the cost of acquisition taken by the Assessing Officer at Rs. 170 per sq. yd. as against the assessee's declared

cost of acquisition at Rs. 150 per sq. yd. were not pressed. The same, therefore, stand dismissed.

3. Ground no. 2 is against the addition of Rs. 4,15,830/- added twice. Briefly stated facts of this ground are that the assessee declared total income of Rs. 5,51,690/-. A copy of computation income has been incorporated on page 2 of the assessment order. In such computation of income, the assessee declared income from `Capital gainsø at Rs.4,15,830/-. The learned AR contended that this income of Rs.4,15,830/- has been taken twice by the Assessing Officer in the computation of total income. The Assessing Officer is directed to verify the assessee's contention in this regard and allow the necessary relief.

4. The only other ground which survives is against denial of rebate under section 54F amounting to Rs. 24,50,000/-. The assessee, in the computation of income under the head `Capital gainsø claimed exemption under section 54F for a sum of Rs. 24,50,000/- on account of `Construction of houseø. The Assessing Officer did not allow such exemption as the assessee could not substantiate this claim. The assessee contended before the learned CIT(A)

that he constructed a residential house in an earlier year on which a sum of Rs. 24,50,000/- was spent. In support of such a claim, the assessee filed a copy of a report of registered valuer. In the absence of the assessee filing any sanction plan or design of the alleged construction of house or bills of purchase of material or labour etc., the learned CIT(A) denied such benefit, against which the assessee has come up in appeal before the Tribunal.

5. Having heard both the sides and perused the relevant material on record, it is seen that the assessee supported its claim under section 54F simply on the basis of the report of a registered valuer. Apart from that, no other evidence was filed in support of the construction. At the same time, the authorities below have also denied the claim without getting the valuation done from the DVO. Under these circumstances, I am of the considered opinion that the ends of justice would meet directly if the impugned order on this issue is set aside and the matter is restored to the file of the Assessing Officer. I order accordingly and direct the Assessing Officer to decide this issue afresh as per law after allowing a reasonable opportunity of being heard to the assessee.

6. In the result, the appeal is allowed.

The order pronounced in the open court on 21st June, 2018.

Sd/-
[R.S. SYAL]
VICE PRESIDENT

Dated, 21st June, 2018.

SH

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.

		Date	Initial
1.	Date of dictation	20.6.2018	PS
2.	Date on which the typed draft is placed before the dictating Member	20.6.2018	PS
3.	Date on which the typed draft is placed before the Other Member		JM/AM
4.	Date on which the approved draft comes to the Sr. P.S. / P.S.		JM/AM
5.	Date on which the fair order is placed before the Dictating Member for pronouncement		PS/PS
6.	Date on which the fair order comes back to the Sr. P.S. / P.S.		PS
7.	Date on which the final order is uploaded on the website of ITAT		PS
8.	Date on which the file goes to the Bench Clerk		
9.	Date on which the file goes to the Head Clerk		
10.	The date on which the file goes to the Assistant Registrar for signature on the order		
11.	Date of dispatch of the Order		

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