

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL , 'D' BENCH, CHENNAI
श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष
BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.No.464/CHNY/2018
(निर्धारण वर्ष / Assessment Year: 2014-15)

Shri Dhananjay Shashikant Bhatt, Plot No.142 - Door No.3, Eshavaasya, 3 rd Main Road, J. Nagar, Payanur-ECR, Chennai – 600 119 PAN: AAFPB2698Q	Vs	The ACIT, Non Corporate Ward 16, Chennai – 34.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से /Appellant by	:	None
प्रत्यर्थी की ओर से /Respondent by	:	Ms. S. Vijayaprabha, JCIT

सुनवाई की तारीख /Date of hearing	:	13.08.2018
घोषणा की तारीख /Date of Pronouncement	:	11.10.2018

आदेश / ORDER

Per A. Mohan Alankamony, AM:-

This appeal by the assessee is directed against the order passed by the Ld. Commissioner of Income Tax (Appeals)-4, Chennai dated 17.11.2017 in ITA New No.230/2016-17/A.Y.2014-15/CIT(A)-4 for the assessment year 2014-15 passed U/s.250(6) r.w.s. 143(3) of the Act. At the time of hearing the Ld.AR was not present before the Bench, however on perusing the file and hearing the submission of the Ld.DR the Bench decided to hear the appeal ex-parte.

2. The assessee has raised three grounds in his appeal however the crux of the issue is that the Ld.CIT(A) has erred in upholding the Order of the Ld.A.O who had disallowed cost of improvement of the residential house sold while computing capital gain in the hands of the assessee U/s.48 of the Act.

3. The brief facts of the case are that the assessee is an individual, earning salary income from M/s. Inca Hammock Manufacturing and Export Pvt. Ltd., filed his return of income for the assessment year 2014-15 on 13.08.2015 admitting total income of Rs.57,21,559/-. The return was selected for scrutiny under CASS and notice U/s.143(2) of the Act was issued on 19.09.2016. Finally assessment order was passed U/s.143(3) of the Act on 31.12.2016 wherein the Ld.AO made addition of Rs.1,05,000/- under the head 'income from house property' and Rs.60,48,739/- under the head 'Long Term Capital Gain'.

4. In the scrutiny assessment proceeding while computing the Long Term Capital Gain, the Ld.AO had disallowed the expenses related to purchase of certain construction materials from Black Diamond Corporation, Chennai, amounting to Rs.8 lakhs and expenses related to interior work to the tune of Rs.13,20,000/-

aggregating to Rs.21,20,000/- because the Ld.AO opined that they were not within the meaning of cost of improvement of asset U/s.55 of the Act, since it was not capital expenditure. The Ld.AO was of the view that the cost of improvement means all expenditure of capital nature incurred in making additions (or) alteration to the capital asset only.

5. On appeal the Ld.CIT(A) confirmed the order of the Ld.AO by observing as under:

“Further, regarding the cost of improvement, during the course of the appellate proceeding, the appellant had also furnished copies of :Receipt” claimed to have been issued by AKR Vijayaar Ltd. which confirmed to have received a sum of Rs.1,60,000/- received on 30/03/2007 from the appellant towards painting and varnishing work. Similar confirmation was given for a sum of Rs.10,68,560/- received on 31/03/2008. Vide this office letter dated 31/10/2017, the appellant was requested to produce the original purchase bills of material from AKR Vijayaar Ltd. However, in reply, the appellant submitted a copy of letter dated 06/11/2017 claimed to have received a sum of Rs.12,28,560/- towards the work done by it. However, the company expressed its inability to furnish the relevant bills since the same were destroyed in the Vardha storm. The above confirmation of the company was not found reliable in the absence of relevant bills. It was also surprising to note as how the company could furnish confirmation in the absence of relevant details. IT is also pertinent to mention here that the appellant also failed to furnish any such bills. Therefore, in view of the above facts and circumstances of the case, I am of the firm opinion that the AO had rightly restricted the claim of cost of improvement to Rs.21,20,000/-. Hence, the same is confirmed.”

6. Before us the Ld.DR argued in support of the orders of the Ld.Revenue Authorities and pleaded for confirming the same.

7. We have heard the Ld.DR and carefully perused the materials on record. From the facts of the case it appears that the assessee has sold his house property along with the fixtures embedded in it. In such circumstances the cost related to the fixtures and the furniture's should be attributed to the cost of the asset sold by the assessee. Therefore we are of the view that the entire cost of fixtures should be considered as cost of acquisition of the asset and the Long Term Capital Gain should have been computed accordingly. Therefore the view expressed by the Ld.AO by making the addition is not appropriate. Further it is apparent that the Ld.CIT(A) had disallowed the expenditure because the assessee had not furnished proper bills and vouchers though the assessee had obtained confirmation letter from the entities to whom he had made payment. This action of the Ld.CIT(A) is also not appropriate. Without making any enquiry from the persons from whom the assessee had obtained confirmation letters towards the expenditure incurred, the Ld.CIT(A) should not have made additions in the hands of the assessee. The confirmation letters submitted by the assessee is also an appropriate evidence to substantiate his claim. Hence, we hereby direct the Ld.AO to compute the Long Term Capital Gain in the hands of the assessee by treating the cost of fixtures, furniture's, etc., as cost of acquisition of the asset.

8. In the result, the appeal of the assessee is allowed.

Order pronounced on the 11th October, 2018 at Chennai.

Sd/-

(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

Sd/-

(ए. मोहन अलंकामणी)
(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 11th October, 2018

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
4. आयकर आयुक्त/CIT

2. प्रत्यर्थी/Respondent
5. विभागीय प्रतिनिधि/DR

3. आयकर आयुक्त (अपील)/CIT(A)
6. गार्ड फाईल/GF