

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 5563/DEL/2018
[Assessment Year: 2015-16]

Smt. Kamlesh Gupta
CP -186, Maurya Enclave,
Pitampura, New Delhi

Vs.

The I.T.O
Ward 40 (1)
New Delhi

PAN: AIWPG 5210 E

[Appellant]

[Respondent]

Date of Hearing : 06.11.2018
Date of Pronouncement : 12.11.2018

Assessee by : Shri Sita Ram Gupta
[Husband of the assessee]

Revenue by : Ms. Aashna Paul, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] -14, New Delhi dated 07.06.2018 pertaining to assessment year 2015-16.

2. The solitary grievance of the assessee is that the ld. CIT(A) erred in confirming the disallowance of Rs. 3,49,412/- being the amount spent for addition made in flat during F.Ys. 2004-05, 2006-07 and 2008-09.

3. Facts on record show that the assessee is a house-wife with no business activity carried out during the year. The return of income was filed on 31.08.2015 declaring income of Rs. 8,15,070/-. The return was selected for scrutiny assessment and, accordingly, statutory notices were issued and served upon the assessee.

4. During the course of scrutiny assessment proceedings, the Assessing Officer noticed that the assessee has sold out entire first floor of residential property at UU 151, Pitampura, Delhi for a consideration of Rs. 36 lakhs. Since the assessee is half-owner of the said property, she has shown sale consideration of her share at Rs. 18 lakhs and by claiming cost of acquisition of Rs. 1,59,240/- and cost of

improvement after indexation at Rs. 15,43,517/- disclosed long term capital gain of Rs. 97,243/-.

5. The assessee was asked to submit all the details relating to cost of improvement. The assessee, vide reply dated 11.12.2017, furnished the bills relating to cost of improvement amounting to Rs. 8,41,891/- out of total expenses of Rs. 11,91,303/-. However, no bills/documentary evidences were furnished in support of her claim. The Assessing Officer, accordingly, disallowed Rs. 3,49,412/- and recomputed capital gain at Rs. 698664/-.

6. The assessee carried the matter before the Id. CIT(A), but without any success.

7. Before me, the husband of the assessee appeared and stated that all the details were furnished during the course of assessment proceedings. It is the say of the representative that since more than 8 years have elapsed, supporting bills were not available. He further pointed out

that there are withdrawals from the bank account which were used for making improvement in the said floor which was sold. The representative showed his helplessness in producing the supporting bills.

8. The Id. DR strongly supported the findings of the lower authorities.

9. I have carefully considered the orders of the authorities below. There is no dispute that full details were furnished during the assessment proceedings itself. It is equally true that the assessee could not produce the supporting bills since more than 8 years have elapsed. In my considered view, and looking to the facts of the case in hand, Rs. 2 lakhs can be considered to have been spent on improvement of the first floor. Therefore, I direct the Assessing Officer to allow Rs. 2 lakhs as cost of improvement and recomputed the long term capital gain after giving benefit of indexation to the same.

10. In the result, the appeal filed by the assessee in ITA No. 5563/DEL/2018 is partly allowed.

The order is pronounced in the open court on 12.11.2018.

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 12th November, 2018

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	