

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES (SMC), JAIPUR

श्री रमेश सी शर्मा, लेखा सदस्य के समक्ष  
BEFORE: SHRI RAMESH C SHARMA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No. 1506/JP/2018  
निर्धारण वर्ष / Assessment Year : 2008-09

Smt. Rasida Khan, 23,24, choudhary Vihar, Outside Gangapole, Jaipur.	बनाम Vs.	I.T.O., Ward 5(5), Jaipur.
स्थायी लेखा सं./ जीआईआर सं./ PAN/GIR No.: DXWPK 9690 E		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri P.C. Parwal (CA)  
राजस्व की ओर से / Revenue by : Ms. Anuradha (JCIT)

सुनवाई की तारीख / Date of Hearing : 19/03/2019  
उदघोषणा की तारीख / Date of Pronouncement : 27/03/2019

आदेश / ORDER

PER: R.C. SHARMA, A.M.

This is an appeal filed by the assessee against the order of Id.CIT(A)-2, Jaipur dated 09/11/2018 for the A.Y. 2008-09 in the matter order passed U/s 143(3)/147 of the Income Tax Act, 1961 (in short the Act).

2. The only grievance of the assessee relates to addition of Rs. 4,43,094/- on account of sale of house property.
3. Rival contentions have been heard and record perused. The Assessing Officer on the basis of information received from the O/o

I&CI(CIB) observed that assessee had sold immovable property for sale consideration of Rs.5,50,000/- which was assessed by the Sub-Registrar for stamp duty purpose at Rs.9,93,094/-. Therefore, AO concluded that difference of Rs.4,43,094/- has escaped assessment and accordingly, assessment was reopened by issue of notice u/s 148 of the Act. During the course of reassessment proceedings, the Assessing Officer did not give credit of construction done by her and made addition on account of capital gains. By the impugned order, the Id. CIT(A) upheld the reopening as well as the addition so made by the Assessing Officer. The assessee is in further appeal before the ITAT.

4. I have considered the rival contentions and carefully gone through the orders of the authorities below and found that the Assessing Officer has made the addition by declining the assessee's claim of construction cost having been incurred twice. From the record, I found that the assessee has incurred expenditure on cost of improvement twice, one in FY 1992-93 for Rs.2 lacs and another in FY 2003-04 at Rs.3,50,000/-. However, in the reply dated 03.06.2015 she wrongly took the cost of improvement in FY 1992-93 at Rs. 1,69,000/- and did not considered the cost of improvement of Rs.3,50,000/- incurred in FY 2003-04. The fact that the assessee was allotted the land on 10.10.1975 by the

cooperative society is not in dispute. Thereafter she made construction in two phases as is evident from the map of the property enclosed with the sale deed'. The Assessing Officer without conducting any enquiry has simply rejected the subsequent claim of the assessee ignoring that assessee being an old lady in the first reply has incorrectly stated the cost of construction at a lower amount. Accordingly, I direct the Assessing Officer to accept the cost of construction claimed by the assessee and delete the addition so made.

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

Order pronounced in the open court on 27<sup>th</sup> March, 2019

Sd/-  
(रमेश सी शर्मा)  
(RAMESH C SHARMA)  
लेखा सदस्य / Accountant Member

जयपुर / Jaipur

दिनांक / Dated:- 27<sup>th</sup> March, 2019

\*Ranjan

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellants- Smt. Rasida Khan, Jaipur.
2. प्रत्यर्थी / The Respondent- The I.T.O., Ward 5(5), Jaipur.
3. आयकर आयुक्त / CIT
4. आयकर आयुक्त(अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 1506/JP/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asst. Registrar