

IN THE INCOME TAX APPELATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

ITA No. 464/DEL/2018

A.Y.: 2013-14

PREETI JHA,
E-107, GAUR GREEN AVENUE,
ABHAY KHAND-2,
INDIRAPURAM, GHAZIBAD
(PAN: AAJOH4590N)
(Appellant)

vs. ACIT, CIRCLE-2
GHAZIABAD

(Respondent)

Assessee by : Sh. K. Sampath, Adv. & Sh. V. Rajakumar,
Adv.
Department by : MS. Ekta Vishnoi, Sr. DR.

ORDER

This appeal filed by the Assessee is directed against the Order dated 10.10.2017 of the Ld. CIT(A), Ghaziabad pertaining to assessment year 2013-14 on the following grounds:-

1. That the Ld. CIT(A) was not justified in upholding the order of the ACIT holding that neither during assessment proceedings nor during appellant proceedings could substantiate the appellant has incurred cost for improvement of property and are in capital nature even through sufficient explanations and materials and in particular order u/s. 153A accepting the accounts of the assessee for financial year 2002-03 where these improvements to assets were reflected and were fully accepted in the assessment proceedings are submitted on records.
2. That the Ld. CIT(A) erred in sustaining the rejection of claim u/s. 55 of the Income Tax Act towards cost of improvement being wood work and other finishing cost at Rs. 4,50,000/- and cost of

power back up and electricity charges paid to builder at Rs. 20,000/-.

3. That in respect of the above grounds the order of the Ld. CIT(A) and AO are not justified on the facts of the case and are bad in law.
4. The appellant craves leave to add, amend, alter, vary and / or withdraw any or all the above grounds of appeal.

2. The brief facts of the case are that assessee is an individual and she is doing the business of contract work. She has filed her return electronically on 31.01.2015 declaring total income of Rs. 23,77,670/- The case was selected for scrutiny through CASS under complete scrutiny. Notice u/s. 143(2) of the Income Tax Act, 1961 (in short "Act") was issued on 31.8.2015 fixing the 09.9.2015 and the same was served upon the assessee within stipulated time. Due to change of incumbent, notice u/s. 142(1) of the I.T. Act dated 25.8.2016 was issued to the assessee. Subsequently, notices u/s. 142(1) of the Act were issued from time to time, which were duly served upon the assessee. In compliance of the notices issued, the AR of the assessee attended the proceedings and furnished written explanation of the queries and produced computation of income of the assessee alongwith supporting documents; copy of Tax Audit Report, copy of bank statements, books of accounts, and other requisite details and documents, which were examined on test check basis. AO observed that assessee had purchased a residential flat no. 203, Gaur Residency, Chander Nagar, Ghaziabad for an amount of Rs. 9,95,000/- in the year 2002-03. Further the assessee has sold the aforesaid property during the year under consideration for an amount of Rs. 1,07,00,000/- and assessee computed capital gain of Rs.

81,303/- and since the assessee was unable to produce the bills and vouchers for the expense booked amounting to Rs. 4,50,000/- for wooden work, hence, the amount of Rs. 4,50,000/- was not considered for capital gain purpose. AO further observed that the amount of Rs. 20,000/- was not related with acquisition of property, hence, the same was also not considered for capital gain purpose and accordingly, the AO re-computed the capital gain at Rs. 10,03,632/- by way of minus of Rs. 81,303/- and added the Rs. 9,22,329/- by completing the assessment u/s. 143(3) of the Act at Rs. 33,00,000/-. Against the assessment order, assessee appealed before the Ld. CIT(A), who vide his impugned order dated 10.10.2017, dismissed the appeal of the assessee. Against the impugned order dated 10.10.2017 of the Ld. CIT(A), assessee is in appeal before the Tribunal.

3. At the time of hearing, Ld. Counsel for the assessee has submitted that Ld. CIT(A) was not justified in upholding the order of the ACIT holding that neither during assessment proceedings nor during appellate proceedings could substantiate the appellant has incurred cost for improvement of property and are in capital nature even through sufficient explanations and materials and in particular order u/s. 153A accepting the accounts of the assessee for financial year 2002-03 where these improvements to assets were reflected and were fully accepted in the assessment proceedings are submitted on records. He further submitted that Ld. CIT(A) erred in sustaining the rejection of claim u/s. 55 of the Income Tax Act towards cost of improvement being wood work and other finishing cost at Rs. 4,50,000/- and cost of power back up and electricity charges paid to

builder at Rs. 20,000/-. In view of above, he requested to allow the appeal of the assessee.

4. On the contrary, Ld. DR relied upon the orders of the authorities below.

5. I have heard both the parties and perused the records, especially the impugned order. I find that AO has observed that assessee had purchased a residential flat no. 203, Gaur Residency, Chander Nagar, Ghaziabad for an amount of Rs. 9,95,000/- in the year 2002-03. It is further noted that the assessee has sold the aforesaid property during the year under consideration for an amount of Rs. 1,07,00,000/- and assessee computed capital gain of Rs. 81,303/-. However, AO further observed that as the assessee was unable to produce the bills and vouchers for the expense booked amounting to Rs. 4,50,000/- for wooden work, hence, the amount of Rs. 4,50,000/- was not considered for capital gain purpose. AO further observed that the amount of Rs. 20,000/- was not related with acquisition of property, hence, the same was also not considered for capital gain purpose and accordingly, the AO re-computed the capital gain at Rs. 10,03,632/- (-) Rs. 81,303/- and added the difference i.e. Rs. 9,22,329/- in the hands of the assessee and the Ld. CIT(A) has noted that the disallowance of cost of improvement claimed by the assessee during FY 2001-02 of Rs. 4,70,000/-. Out of above said expenses, according to the assessee the sum of Rs. 4,50,000/- was incurred on wood work and other finishing cost and Rs. 20,000/- was spent on power backup and electricity charges. Examination of facts reveals that the nature of these expenses was not that of as per cost of acquisition / improvement u/s. 55 of the I.T. Act. It is noted that

as per section 55 of the Act only expenditures which are of capital nature need to be considered for the purpose of cost of improvement. The assessee neither during assessment proceedings nor during appellate proceedings could substantiate that assessee has incurred a sum of Rs. 4,70,000/- towards improvement of the property and are of capital nature. Hence, in my considered view, there is no need to interfere in the well reasoned finding of the Ld. CIT(A) in sustaining the addition of Rs. 4,70,000/-. Hence, I uphold the finding of the Ld. CIT(A) on the issue in dispute and reject the grounds raised by the assessee.

6. In the result, the Appeal of the assessee is dismissed.

Order pronounced on 31-10-2019.

Sd/-
[H.S. SIDHU]
JUDICIAL MEMBER

Date:31/10/2019

SRB

Copy forwarded to: -

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

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By Order,

Assistant Registrar, ITAT, Delhi Benches