

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, "ए" चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL
DIVISION BENCH, 'A' CHANDIGARH

श्री संजय गर्ग, न्यायिकसदस्य एवं श्रीमती अन्नपूर्णा गुप्ता, लेखा सदस्य
BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER AND
Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

आयकरअपीलसं./ITA No. 1332/CHD/2018

निर्धारणवर्ष / Assessment Year : 2014-15

Shri Ajay Gupta, SCO 3227, Sector 28-D, Chandigarh	बनाम	ACIT, Circle 4(1), Panchkula
स्थायीलेखासं./PAN NO: AAWPG6907C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारितीकीओरसे/Assessee by : Shri Pariskhsit Aggarwal, CA
राजस्वकीओरसे/ Revenue by : Shri Arvind Sudershan, Sr. DR

सुनवाईकीतारीख/Date of Hearing : 28.11.2019
उद्घोषणाकीतारीख/Date of Pronouncement : 28.11.2019

आदेश/Order

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 06.09.2018 of the Commissioner of Income Tax (Appeals)-2, Chandigarh [hereinafter referred to as 'CIT(A)'].

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2. The assessee in this appeal has taken following grounds of appeal:-

1. *That on the facts, circumstances and legal position of the case, the Worthy CIT(A) in Appeal No. 10153/2/16-17 dated 06.09.2018*

has erred in passing that order in contravention of the provisions of S. 250(6) of the Income Tax Act, 1961.

2. That on law, facts and circumstances of the case, the Worthy CIT(A) has erred in confirming the action of Ld. AO in making addition of Rs. 55,56,000/- on account of alleged unavailability of vouchers related to expenses for cost of improvement even when the expenses were incurred 15-30 years back.

3. That the appellant craves leave for any addition, deletion or amendment in the grounds of appeal on or before the disposal of the same.

3. At the outset, Ld. AR of the assessee has submitted that the sole issue raised by the assessee in this appeal is regarding the denial of cost of improvement on the plot alongwith indexation by the Assessing Officer while computing capital gains on the sale of the property. The Ld. AR of the assessee has invited our attention to the copy of the sale deed, wherein, the factum of construction of 8000 square feet has been mentioned, whereupon, the assessee has also paid stamp duty to the Collector at the time of registration of the sale deed.

The Ld. Assessing Officer has denied the entire claim of cost of improvement since the assessee could not provide the necessary bills and vouchers. The Ld. AR of the assessee has submitted that since the construction was made more than 15 years back, hence, the assessee could not locate the bills and vouchers regarding the expenditure incurred for construction. However, the fact of construction could have

well been verified by the Assessing Officer by visiting the site or through other means. That even had there not been any construction, there was no question of mentioning the same in the sale deed as neither the purchaser nor the seller could have gained anything by so mentioning in the sale deed, rather, they have been burdened with additional stamp duty. The Ld. counsel has further submitted that the assessee now has located some of the bills and vouchers incurred for expenditure on construction and that now he is able to produce the same before the Assessing Officer. The Ld. AR, therefore, has submitted that in the interest of justice, the matter may be restored to the file of the Assessing Officer for proper examination of the facts.

4. Though, the Ld. DR has relied upon the findings of the lower authorities but has been fair enough to admit that the matter requires factual examination at the hands of the Assessing Officer.

5. In view of this, the impugned order of the CIT(A) is hereby set aside and the matter is restored to the file of the Assessing Officer with a direction to consider the facts of the case in the light of the observations made above and also in the light of the evidences as may be furnished by the assessee and thereafter to pass a speaking order. The assessee is also directed to promptly appear before the Assessing Officer, as and when called for, and not to contribute in any manner in delaying the proceedings.

In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order dictated and pronounced in the Open Court immediately on completion of hearing on 28.11.2019.

Sd/-
(अन्नपूर्णा गुप्ता / ANNAPURNA GUPTA)
लेखा सदस्य/ Accountant Member

Sd/-
(संजय गर्ग / SANJAY GARG)
न्यायिक सदस्य/ Judicial Member

Dated : 28.11.2019

“आर.के.”

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,
सहायकपंजीकार/ Assistant Registrar