

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri Shamim Yahya (AM) & Shri Amarjit Singh (JM)

I.T.A. No. 4932/Mum/2018 (Assessment Year 2011-12)

Mitesh L. Gursahani 28, Veena Beena Gurunank Road Bandra West Mumbai-400 050. PAN : AKCPG1157G (Appellant)	Vs.	ITO, Erstwhile Ward 19(1)(1) Now ITO Ward 22(2)(3) Mumbai (Respondent)
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Assessee by	Shri G.T. Karnani
Department by	Shri Chaitanya Anjaria
Date of Hearing	04.09.2019
Date of Pronouncement	02.12.2019

ORDER

Per Shamim Yahya (AM) :-

This appeal by the assessee is directed against the order of learned CIT(A) dated 3.5.2018 and pertains to A.Y. 2011-12.

2. The issue raised is that learned CIT(A) erred in confirming the addition of the Assessing Officer in treating cost of improvement at Rs. 4,24,790/-.

3. The issue in dispute in this case is 'cost of improvement' claimed by the assessee is adjustable from sales of capital asset. The assessee has sold an immovable property for Rs. 60 lakhs during the year under consideration. The assessee had claimed Rs. 8,20,000/- as cost of improvement during the assessment year 2005-06 and 2006-07. Cost was said to be incurred on items like cement, flooring tiles, POP, hardware, electrical work-in-progress, wood work, supervision and labour charges. Except list of expenditure no supporting bills were shown. The Assessing Officer issued notice u/s. 131 of the Act to the

relevant parties who have confirmed that such renovation was done by the assessee. Entire payment was done in cash.

4. Learned CIT(A) was observed that all the confirmation were similar type. Learned CIT(A) concluded that it is also a fact that the parties concerned have filed confirmation though without any supporting details. He proceeded to hold that the parties/recipients who were assessed to tax are genuine parties. Hence, he allowed cost of improvement of Rs. 3,95,210/- purchased from them. Accordingly, he sustained disallowance of cost of improvement of Rs. 4,24,790/-.

5. Against this order the assessee is in appeal before us. We have heard both the counsel and perused the records. We find that the concerned parties have responded and confirmed that the assessee had done renovation work and when learned CIT(A) is even allowing those parties who are assessed to tax as genuine, there is no reason why other parties should be treated as non-genuine. In our considered opinion when parties have duly responded to the notice of the Assessing Officer, learned CIT(A) cannot treat some of them as genuine and some of them as non-genuine. Accordingly, in our considered opinion addition sustained by learned CIT(A) is liable to be deleted. We order accordingly.

6. In the result, appeal by the assessee stands allowed.

Order has been pronounced in the Court on 02.12.2019.

Sd/-
(AMARJIT SINGH)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 2/12/2019

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT

5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai