

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI  
श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष  
Before Shri Duvvuru RL Reddy, Judicial Member &  
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No. 403/Chny/2018  
निर्धारण वर्ष/Assessment Years: 2013-14  
&

**C.O. No. 119/Chny/2018 [In I.T.A. No. 403/Chny/2018]**

The Assistant Commissioner of  
Income Tax, Non Corporate Circle 6(1),  
Room No. 223, BSNL Building, II Floor,  
16, Greams Road, Chennai 600 006.

Vs. Shri Rangroopmal Chordia,  
Old No. 1, Kalathi Pillai Street,  
Sowcarpet, Chennai 600 079.  
**[PAN:AAAPC7457K]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent/Cross Objector)

अपीलार्थी की ओर से / Appellant by : Shri AR.V. Sreenivasan, Addl. CIT  
प्रत्यर्थी की ओर से/Respondent by : Shri K. Vishva Padmanabhan, C.A.  
सुनवाई की तारीख/ Date of hearing : 14.10.2020  
घोषणा की तारीख /Date of Pronouncement : 04.12.2020

**आदेश / O R D E R**

**PER BENCH:**

The appeal filed by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals) 5, Chennai, dated 24.11.2017 relevant to the assessment year 2013-14. The only effective ground raised in the appeal of the Revenue is that the Id. CIT(A) has erred in directing the Assessing Officer to give the benefit of indexation from 01.04.1981.

2. At the time of hearing, the Id. Counsel for the assessee has submitted that the tax effect in the appeal filed by the Revenue is less than the

monetary limit of ₹.50,00,000/- fixed by the CBDT to file an appeal by the Revenue before the Tribunal as per the CBDT Circular No. 17/2019, dated 08.08.2019. The Id. DR fairly conceded the submissions made by the Id. Counsel for the assessee. Being so, the Revenue authorities are precluded from filing the appeal before the Tribunal, since the tax effect is less than ₹.50,00,000/- in this appeal and the appeal filed by the Revenue is liable to be dismissed.

3. Otherwise also, while computing the indexed cost of acquisition, in relation to an asset which has been acquired through inheritance and which was acquired prior to 1981-82, indexation has to be with reference to the year 1981-82 and cost of acquisition to be adopted would be as on 01.04.1981 as has been held by the Hon'ble Bombay High Court in the case of CIT v. Manjula J. Shah 355 ITR 474 (Bom), which was further concurred by the Hon'ble Delhi High Court in the case of Arun Shungloo Trust [2012] 205 TAXMAN 456 (Delhi). In view of the above, the appeal filed by the Revenue stands dismissed.

4. The Cross Objection filed by the assessee is delayed by 83 days, for which, the Id. Counsel for the assessee has filed a petition in support of an affidavit for condonation of the delay along with medical certificate, to which; the Id. DR has not raised any serious objection. Consequently,

since the assessee was prevented by sufficient cause, the delay of 83 days in filing of the CO stands condoned and the CO is admitted for adjudication.

4.1 The assessee preferred Cross Objection against the order of the Id. CIT(A) in confirming the denial of the claim of deduction with respect to the cost of improvement at ₹.4,45,811/-. The Assessing Officer rejected the claim of the assessee for the deduction of cost of improvement during 1985-86 to the extent of ₹.4,45,811/- as the assessee did not furnish any proof for having incurred such expenditure. On appeal, the Id. CIT(A) confirmed the disallowance of deduction claimed by the assessee.

4.2 We have considered the rival contentions, perused the materials available on record and gone through the orders of authorities below. The contention of the Id. Counsel for the assessee is that the Assessing Officer has accepted the cost of the building based on the valuer's certificate, but, rejected the entire claim of cost of improvement. On perusal of the assessment order, we find that the Assessing Officer has accepted the valuer's certificate/report for assessing cost of building for the purpose of computation of capital gain, whereas, for the purpose of cost of improvement, the Assessing Officer rejected the valuer's certificate/report is found to be incorrect. Admittedly, the assessee's mother raised 2<sup>nd</sup> and 3<sup>rd</sup>

floor even though purchase bills, vouchers are not brought on record since the cost of improvement took place 30 years back and cost of improvement cannot be ruled out since super structure of the building was not in dispute. Under these facts and circumstances, we set aside the orders of authorities below on this issue and direct the Assessing Officer to allow 50% of the claim as cost of improvement claimed by the assessee. Thus, the ground raised by the assessee in the CO is partly allowed.

5. In the result, the appeal of the Revenue is dismissed and the CO filed by the assessee is partly allowed.

Order pronounced on the 04<sup>th</sup> December, 2020 in Chennai.

Sd/-  
(G. MANJUNATHA)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, 04.12.2020

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/ Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT, 5. विभागीय प्रतिनिधि/DR & 6. गार्ड फाईल/GF.