

**IN THE INCOME TAX APPELLATE TRIBUNAL  
SMC "A" BENCH: BANGALORE**

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.548/Bang/2021
AssessmentYear:2017-18

Mr. Varun Prabhakar Flat No.B-2026, Sobha Suncrest UM Kaval, Kanakapura Main Road Uttarahalli Bengaluru 560 062  <b>PAN NO :AWRPV7555N</b>	<b>Vs.</b>	ACIT Circle-3(2)(1) Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Smt. Sunaina Bhatia, A.R.
<b>Respondent by</b>	:	Shri Ganesh R Ghale, Standing Counsel for dept.

<b>Date of Hearing</b>	:	01.02.2022
<b>Date of Pronouncement</b>	:	09.02.2022

**O R D E R**

**PER B.R. BASKARAN, ACCOUNTANT MEMBER:**

The assessee has filed this appeal challenging the order dated 23.8.2021 passed by Ld. CIT(A), National Faceless Appeal Centre, Delhi.

2. The only issue urged in this appeal relates to disallowance of claim of expenditure of Rs.1,64,232/- while computing long term capital gain on sale of a building.

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3. The facts relating to the issue are stated in brief. During the year under consideration, the assessee sold a residential house property at D-301, Adarsh Residency, 8<sup>th</sup> Block, Jayanagar, Bengaluru, of which she is a joint holder along with her mother. The said property was purchased in the year 1996. Subsequently, on 15<sup>th</sup> October, 2015, assessee's mother released her right in the above said flat in favour of the assessee. Accordingly, the assessee became the sole owner of the above said flat. The assessee sold the above said flat on 11.7.2016 for a consideration of Rs.2,52,50,000/- The assessee claimed to have incurred a sum of Rs.1,64,232/- in the financial year 2000-01 as cost of improvement. The indexed cost of the same amounting to Rs.4,55,076/- was claimed as deduction while computing long term capital gain. The A.O. disallowed the above said claim observing that the assessee has not furnished any proof in support of the claim of expenditure of Rs.1,64,232/-.

4. Before Ld. CIT(A), the assessee furnished a copy of demand notice issued by M/s Adarsh Developers along with copy of cheque leaf for payment of the above said amount of Rs.1,64,232/-. The breakup of the above said amount consisted of water and sanitary connection of Rs.40,072/-, electricity connection charges Rs.48,320/- and sales tax Rs.74,340/-. The Ld. CIT(A) was of the view that the assessee has not furnished any specific evidence to prove incurring of the above said 3 items of expenditure. He also expressed doubt as to whether these expenditures are directly related to the property under consideration or not. Accordingly, he took the view that the A.O. has rightly disallowed the cost of improvement of Rs.1,64,232/-. Accordingly, he dismissed the appeal of the assessee. Hence, the assessee has filed this appeal before the Tribunal.

5. I heard the parties and perused the record. The Ld A.R invited my attention to the copy of evidences that were furnished before the Ld. CIT(A). I notice that the builder M/s. Adarsh Developers has raised a demand for Rs.1,64,232/- vide its letter dated 2.6.2000. I also notice that the flat number D-301 Adarsh Residency is also mentioned in the letter in "Reference" column, i.e., the very same property which was sold by the assessee. Hence, in my view, the Ld CIT(A) was not justified in apprehending as to whether these expenditure are directly related to the property under consideration or not. The breakup details of the demand have been given in the letter itself. Thus these payments, consisting of water & sanitary connection charges, electricity connection charges and sales tax on the above payments, have been demanded by the Builder, meaning thereby, they represent share of expenses attributable to the flat of the assessee.

6. I notice that the assessee has paid the above said amount by way of cheque bearing No.351831 drawn on Indian Overseas Bank on 27.7.2000. The Ld. A.R. submitted that these amounts were paid to the builder, which in turn, had incurred these expenditures on behalf of all flats. Hence separate bill pertaining to the flat is not available. Accordingly, the Ld. A.R. prayed that these evidences sufficiently prove that the assessee has incurred these expenditures and accordingly prayed for deduction of indexed cost of the same.

7. On the contrary, Ld. D.R. supported the order passed by Ld. CIT(A) and submitted that the assessee has not furnished any evidence in support of the expenses.

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8. I heard rival contentions and perused the record. I notice that the cost of improvement of Rs.1,64,232/- claimed by the assessee consisted of water & sanitary connection charges of Rs.40,072/-, electricity connection charges of Rs.49,320/- and sales tax on the above payments amounting to Rs.74,840/-. As submitted by Ld A.R, these expenses have been incurred by the builder and assessee's share has been demanded by way of letter dated 2<sup>nd</sup> June, 2000. The assessee has also furnished a copy of cheque leaf through which the above said payment was made. Since these expenses were incurred by the builder, the relevant vouchers should be available with him. It is in the common knowledge of everyone that without making the above said payments, the builder would not have allowed the assessee to occupy the flat. Further, when the AO is accepting the other payments made to the builder for purchase of flat, there is no reason to suspect this payment alone. Accordingly, I am of the view that there is no reason to suspect the claim of the assessee. Accordingly, I set aside the order passed by Ld CIT(A) on this issue and direct the AO to allow indexed cost of improvement on the above said cost of improvement of Rs.1,64,232/-.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 9<sup>th</sup> Feb, 2022

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

Bangalore,  
Dated 9<sup>th</sup> Feb, 2022.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

**Asst. Registrar,  
ITAT, Bangalore.**