

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "SMC", PUNE

BEFORE SHRI S. S. GODARA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.287/PUN/2020

निर्धारण वर्ष / Assessment Year: 2011-12

Vinita Shailendra Lele, Flat No.5, Ketan HSG. Soc. Off Shantiban Society, Guruganesh Nagar, Paud Road, Kothrud-411038. PAN : AALPL0852E	Vs.	ITO, Ward-3(4), Pune.
Appellant		Respondent

Assessee by : Smt. Deepa Khare

Revenue by : Shri M. G. Jasnani

Date of hearing : 27.07.2022

Date of pronouncement : 27.07.2022

आदेश / ORDER

PER S. S. GODARA, JM:

This assessee's appeal for assessment year 2011-12 arises against the CIT(A)-3, Pune's order dated 19.09.2019 passed in case no.PN/CIT(A)-3/Wd 3(4), Pn/186/2018-19 involving proceedings u/s 143(3) r.w.s. 147 of the Income Tax Act, 1961; in short "the Act".

Heard both the parties. Case file perused.

2. The assessee pleads the following substantive grounds in the instant appeal :-

“1. The learned CIT(A) erred in law and on facts in confirming the taxable income of the appellant at Rs. 30,71,930/- as against the returned income of Rs. 23,66,440/-

2. The Ld. CIT(A) erred in making the disallowance of indexed cost of improvement amounting to Rs. 7,05,491/- made in the year 2006 & 2010 without considering the submission made and documents furnished during the assessment proceedings.

3. The Ld. CIT(A) erred in confirming levy of the interest u/s 234 of the Act on entire amount till date of assessment order despite of payment of tax of Rs. 5,00,000/- made on 28.04.2018.”

3. Both the learned representatives invited my attention to the CIT(A)'s detailed discussion affirming the impugned cost of improvement disallowance of Rs.7,05,491/- as follows :-

“5.4. In this case, the appellant sold immovable property for Rs.37,05,000/- on 31.08.2010 and she did not show said transaction in ITR for AY 2011-12. A notice u/s 148 of the Act was issued to the appellant on 22.03.2018 and duly served. The appellant filed Return of Income on 11-10-2018 declaring income of Rs 23,66,440/-. In the computation of income, the appellant claimed indexed cost of improvement of Rs.7,05,491/-. The AO asked for documentary evidences but the same were not furnished by the appellant. Therefore, the claim of cost of improvement of Rs.7,05,491/- was not accepted by the AO and amount of Rs.7,05,491/- was added to income of appellant on account of Long Term Capital Gains.

5.5. The appellant explained that she sold a property for a consideration of Rs.37,05,000/- during the year under consideration. While computing taxable capital gain, the appellant claimed deduction for cost of acquisition and cost of improvement in its return of income. However, the AO allowed deduction only for cost of acquisition whereas, deduction for cost of improvement was denied by the AO. The appellant could not furnish any documentary evidences in support of claim of improvement. The appellant furnished only certificate of a Govt. Contractor and on said certificate, no date was mentioned. During the appellate proceedings also, the appellant expressed inability to furnish any cogent evidences. The appellant was asked to at least furnish copy of bank accounts from where money was withdrawn for the construction work, if any. The appellant expressed inability to furnish such documents. Therefore, the addition made by the AO is confirmed and Grounds NO 1 & 2 are DISMISSED.”

4. I have given my thoughtful consideration to vehement rival stands and find no reason to express my agreement with either party's arguments in entirety. This is for the reason that although the assessee has failed to file all the supportive evidence of the impugned cost of improvement, the fact remains that such a deduction could not be altogether ruled out so as to maintain the asset in reasonable condition. Face with this situation, I deem it appropriate that a lump sum relief of Rs.2,00,000/- would be just and proper in given facts and circumstances subject to the condition that the instant estimation shall not be treated as a precedent. The impugned addition of Rs.7,05,491/- is restricted to Rs.5,05,491/- in other words. Necessary computation shall follow as per law.

All other grounds are treated as consequential in nature.

5. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced on this 27th day of July, 2022.

Sd/-
(S. S. GODARA)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 27th July, 2022.

Sujeet (DOC)

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-3, Pune.
4. The Pr. CIT-2, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "SMC" बेंच,
पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.