

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH: DEHRAHUN**

**BEFORE SHRI N.K.BILLAIYA, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

[THROUGH VIDEO CONFERENCING AT NEW DELHI]

**ITA No.5103/Del/2018
[Assessment Year : 2016-17]**

Gambhir Singh, C/o-Matta Garg & Co., 15-Astley Hall, Dehradun, Uttarakhand. PAN-EDMPS0578E	vs	DCIT, Central Circle, Dehradun.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Sanjay Pandey, Sr.DR	
Date of Hearing	23.08.2022	
Date of Pronouncement	30.08.2022	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2016-17 is directed against the order of Ld. CIT(A)-IV, Kanpur dated 20.06.2018.

2. The assessee has raised following ground of appeal:-

1. *“The learned assessing officer as well as learned Commissioner of Income Tax(Appeals) have erred in making and confirming the addition of Rs.2,10,000/- claimed as cost of improvement out of long term gain offered to tax.*
2. *The order passed is arbitrary, against the provisions of law and facts of the case.”*

3. At the time of hearing, no one attended the proceedings on behalf of the assessee. The assessee has not filed any application seeking adjournment. It is seen from the records that there was no representation on behalf of the assessee on the last date of hearing as well. Therefore, the appeal of the assessee is taken up for hearing in the absence of the assessee and being disposed off on the basis of material available on records.

4. The only effective ground in this appeal is against the sustaining of addition of Rs.2,10,000/- claimed as cost of improvement by the assessee.

FACTS OF THE CASE

5. Facts giving rise to the present appeal are that the case of the assessee was taken up for scrutiny assessment and the assessment u/s 143(3) of the Income Tax Act, 191 [“the Act”] was framed vide order dated 31.12.2017. The Assessing Officer [“AO”] while framing the assessment noticed that the assessee declared Long Term Capital Gain [“LTCG”] of Rs.1,37,96,966/- out of sale of land and while computing the capital gain, the assessee claimed deduction of Rs.2,10,000/- being the cost of development. The AO called upon the assessee to explain the expenditure incurred on development. It was stated before the AO that a sum of Rs.2,10,000/- was incurred on the installation of boring pump. However, the AO rejected the explanation of the assessee that no evidence in support of such expenditure was filed and he made addition of Rs.2,10,000/-.

6. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, sustained the addition and dismissed the appeal of the assessee.

7. Aggrieved against the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

8. On the contrary, Ld. Sr. DR opposed these submissions and supported the orders of the authorities below and submitted that the authorities below were justified in making the addition as the assessee failed to file any evidence in support of his contention.

9. We have heard Ld. Sr. DR and perused the material available on record and gone through the orders of the authorities below. The contention of the assessee before the AO was that the expenditure was incurred for digging the boring well. The AO did not verify this contention and made addition of Rs.2,10,000/-. In our considered view, the AO ought to have given opportunity to the assessee to prove the incurrence of the expenditure. Thereafter, he should have verified whether any boring tubewell was installed by the assessee. Therefore, looking to the totality of the facts, we deem it proper to restore this issue to the file of AO to decide it afresh. Needless to say that the AO should provide sufficient opportunity to the assessee. Thus, grounds raised by the assessee are allowed for statistical purposes.

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

Order pronounced in the open Court on 30th August, 2022.

Sd/-

(N.K.BILLAIYA)
ACCOUNTANT MEMBER

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI