

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “H” BENCH: NEW DELHI**

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

**ITA No.4086/Del/2019
[Assessment Year : 2014-15]**

Harsh Jain, Flat No.50, Akshardham Apartment, Pocket-3, Sector-19, Dwarka, New Delhi-110075. PAN-AFRPJ6727R	vs	CIT(A)-12, New Delhi
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Ms. Shweta Yadav, Sr. DR	
Date of Hearing	24.11.2022	
Date of Pronouncement	24.11.2022	

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2014-15 is directed against the order of Ld. CIT(A)-12, New Delhi dated 23.01.2019. The assessee has raised following grounds of appeal:-

1. *“It is prayed that indexed cost of Rs. 1,00,38,985 as claimed by the assessee be allowed.*
2. *It is prayed that purchase cost of Rs. 2 Lakhs and Improvement cost of Rs. 2,35,000 incurred by Late Kunal Jain, from whom assessee inherited the property may be considered by AO as well as the Indexed cost.*
3. *It is prayed that Brokerage expense worth Rs. 3,71,400 be allowed.*
4. *It is prayed that the appellate order should be remanded to the CIT(A) in view of the case law in CIT Vs M.P. Bidi Leaves Co. [(1985) 154 ITR 182 (MP)].”*

2. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the records that no one has been attended the

proceedings since the institution of the present appeal. Therefore, the appeal is taken up for hearing in the absence of the assessee and is being disposed off on the basis of material available on record.

BRIEF FACTS OF THE CASE

3. Facts giving rise to the present appeal are that in this case, assessment was re-opened on the basis of AIR information in respect of sales of properties amounting to Rs.1,10,11,904/-. Accordingly, a notice u/s 148 of the Income Tax Act, 1961 (“the Act”) was issued to the assessee. In response thereto, Ld. Authorized Representative (“AR”) of the assessee attended the proceedings. The Ld.AR was asked to submit the requisite Sale Deed and Purchase Deed of the properties. It is also observed by Assessing Officer (“AO”) that the assessee failed to furnish the return of income in time. It is observed by the AO that there was no construction on the said plot at the time of execution of Sale Deed, therefore, claim of cost of improvements is not tenable. Therefore, the assessing authority computed the income of the assessee and assessed the income at Rs. 1,21,30,030/-.

4. 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.

5. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before this Tribunal.

6. Apropos to Grounds of appeal, Ld. Sr. DR on behalf of the Revenue pointed out that before the authorities below, the assessee could not support its claim related to improvement etc. and it has been categorically stated by the authorities

below that the claim was forged as there was no construction on the land in question.

7. We have heard Ld. Sr. DR and perused the material available on record.

We find that Ld.CIT(A) has given a finding on fact by observing as under:-

7.4 *“It may be seen that the arithmetic calculations given by the Assessee for working out the capital gain are not accurate. However, the Assessing Officer asked the Assessee to furnish copy of the deed for the purchase of the property at Kamla Nagar and documentary evidence in support of cost of improvement. The Assessee only filed an affidavit to which the Assessing Officer remarked that the same cannot take place of evidences in respect of the purchase of the property and cost of improvement. The Assessing Officer also asked to furnish the evidence in respect of transfer expenses. However, the Assessee failed to submit the evidences called for by the Assessing Officer. On the perusal of the sale deed of the property at 26, Arihant Nagar, New Delhi, the Assessing Officer observed that the stamp duty has been calculated on the land price only. That means there was no construction on the said plot at the time of execution of sale deed. The property was a vacant plot. Hence, the Assessing Officer observed that the Assessee was misleading by submission that there was construction on the said plot. In view of the above, the Assessing Officer disallowed the claim of indexed cost of improvement. The Assessing Officer also disallowed the claim of deduction on account of transfer expenses in the absence of any proof. The Assessing Officer worked out the capital gain from the sale of two properties at Rs. 1,04,64,030/- and Rs.5,70,000/- respectively.*

7.5 *It may be seen that the order of the Assessing Officer is well reasoned. He gave ample opportunity to the Assessee to submit the evidences in regard to the transfer expenses and cost of improvement. The Appellant made a forged claim of cost of improvement in respect of Property No. 1, though the sale deed clearly reflects the sale of plot.*

With regard to the claim of ITR filed on 14.07.2014, a detailed discussion has been made above. On these facts, the order of the Assessing Officer is confirmed and the grounds of appeal taken by the Appellant are dismissed.

8. *In the result, the appeal is dismissed.”*

8. The above finding on fact is not contradicted by the assessee by placing any material on record. Therefore, looking to the facts available on record, we do not see any reason to interfere in the finding of Ld.CIT(A), the same is hereby affirmed. Thus, Grounds raised by the assessee are dismissed.

9. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 24th November, 2022.

Sd/-

Sd/-

(N.K.BILLAIYA)
ACCOUNTANT MEMBER

(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI