

**THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member

ITA No. 2141/Del/2019 : Asstt. Year: 2010-11

Ravinder Singh, 141, Gali No. 3, Neb Sarai, New Delhi-110068 (APPELLANT)	Vs	Income Tax Officer, Ward-31(5), New Delhi (RESPONDENT)
PAN No. AVAPS7256H		

**Assessee by : Sh. Shaantanu Jain, Adv.
Revenue by : Sh. Om Parkash, Sr. DR**

Date of Hearing: 18.05.2023	Date of Pronouncement: 20.06.2023
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ORDER

The present appeal has been filed by assessee against the order of Id. CIT(A)-11, New Delhi dated 31.12.2018.

2. Following grounds have been raised by the assessee:

"1. In the facts and circumstances of the case and in law, the Id. AO has erred in reopening the assessment under section 147 of Income Tax Act, 1961. The action of the Id. AO is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the reassessment proceedings being illegal and without jurisdiction.

2. In the facts and circumstances of the case and in law, the Id. AO has erred in issuing notice under section 148 of Income Tax Act, 1961 without obtaining proper sanction under section 151 of the Income Tax Act, 1961. The action of the Id. AO is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the. Reassessment proceedings being illegal and without jurisdiction.

3. In the facts and circumstances of the case and in law the Id. CIT(A) has erred in confirming the action of Id. AO of computing capital gains of Rs. 24,46,851. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by accepting the capital gains of Rs. 29,575 as declared by the assessee.

4. In the facts and circumstances of the case and in law the Id. CIT(A) has erred in confirming the disallowance made by Id. AO amounting to Rs.17,97,280 on account of indexed cost of construction. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the disallowance and allowing the indexed cost of construction of Rs.17,97,280.

4. In the facts and circumstances of the case and in law the Id. CIT(A) has erred in confirming the disallowance of deduction u/s 54 amounting to Rs. 6,19,996 made by Id. AO. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the disallowance and allowing the deduction of Rs.6,19,996 u/s 54.

5. In the facts and circumstances of the case and in law the Id. CIT(A) has erred in confirming the disallowance made by Id. AO in respect of commission paid amounting to Rs. 78,476 as business expenditure. The action of the Id. CIT(A) is illegal, unjustified, arbitrary and against the facts of the case. Relief may please be granted by quashing the disallowance of Rs.78,476."

3. The assessee sold residential land in 2009 for Rs.26,68,000/- and has declared capital gain of Rs.6,49,571/- after availing indexation. The assessee has claimed cost improvement of Rs.5,80,075/- incurred during the F.Y. 1984-85 to F.Y. 1989-90 and in F.Y. 2009-10. The AO deputed the Income Tax Inspector to verify the addresses provided. The

Inspector reported that the said parties were not existing at the given addresses. A realistic approach has to be taken while verification of the parties who has done the work of improvement in 1985 to 1987. No adverse inference can be drawn if the parties who did petty masonry work 20 years back are not found at the given addresses in 2016. The addition made on this account deserves to be deleted.

4. Further, the Id. CIT(A) disallowed the claim of the assessee u/s 54 of the Income Tax Act, 1961 on the grounds that sale deed was not presented before him. The same is found to be a part of the paper book submitted before the revenue authorities and hence the claim of the assessee u/s 54 for Rs.6,19,996/- is to be allowed. Similarly, owing to the confirmation, the commission paid of Rs.78,476/- is also directed to be allowed as eligible expenses.

5. In the result, the appeal of the assessee is allowed.
Order Pronounced in the Open Court on 20/06/2023.

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

Dated: 20/06/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR