

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'B' BENCH: CHENNAI**

श्री मंजुनाथ जी, लेखा सदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष  
**BEFORE SHRI MANJUNATHA G, ACCOUNTANT MEMBER AND**  
**SHRI MANOMOHAN DAS, JUDICIAL MEMBER**

आयकर अपील सं./ITA No.750/Chny/2023  
निर्धारण वर्ष /Assessment Year: 2017-18

**Shri Padmanabhan Mohan,**  
AA-86, 1<sup>st</sup> Floor, Block C,  
4<sup>th</sup> Street, 1<sup>st</sup> Main Road,  
Annanagar West,  
Chennai – 600 040.  
**[PAN: AZQPM-2586-E]**  
(अपीलार्थी/Appellant)

**The Income Tax Officer,**  
Vs. International Taxation Ward-1(2),  
Chennai.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri R. Venkata Raman, C.A  
प्रत्यर्थी की ओर से /Respondent by : Shri D. Hema Bhupal, JCIT

सुनवाई की तारीख/Date of Hearing : 25.09.2023  
घोषणा की तारीख /Date of Pronouncement : 13.10.2023

**आदेश / ORDER**

**PER MANOMOHAN DAS, J.M:**

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-16, Chennai [CIT(A)] dated 16-03-2023 passed under section 250(6) of the Income Tax Act, 1961 [the Act] and pertains to the Assessment Year [AY] 2017-18. The grounds raised by the assessee are as under:

*"1. That the Ld.CIT(A) is not justified in directing the Assessing Officer to adopt the cost of purchase of the property at Rs. 45,45,600/- as against the actual cost of Rs.51,84,000/- incurred by the appellant and consequently not justified in confirming the disallowance of balance cost/of Rs.6,38,400/-.*

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*2. That the Ld.CIT(A) is not justified in confirming the disallowance of Rs.3,63,648/ made by the Assessing Officer towards cost of registration charges claimed by the appellant.*

*3. That the Ld.CIT(A) ought to have directed the Assessing Officer to allow the benefit of indexation on the above cost."*

2. The Registry noted that there was a delay of 34 days in filing of the appeal by the assessee. The Ld. AR sought condonation of that delay and the Bench condoned that delay of 34 days with the consent of the Ld. DR and, accordingly, proceed to adjudicate the case.

3. The facts of the case are that the assessee is an NRI. He filed his return of income on 10-06-2017 declaring income of Rs. 2,04,070/- which was selected for scrutiny under CASS. Accordingly, statutory notice under section 143(2) of the Act was issued and served upon the assessee. Subsequently, notice under section 143(2) was issued to the assessee. The assessee in response submitted details as called. The assessee sold an immovable property for a total consideration of Rs. 93,00,000/- and after claiming indexed cost of acquisition and improvement, arrived at loss. The assessee claimed that he paid Rs.51,84,000/- to the builder for the acquisition of the property. Also he claimed that he paid Rs.3,63,648/- towards registration fee. However, the Ld. AO noticed that the assessee had constructed the said property as per the master agreement dated 11-01-2007 executed between the assessee and M/s Mahindra Gesco Developers Ltd. The

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agreed consideration as per the said agreement was Rs. 45,45,600/-. The assessee raised housing loan of Rs. 41,12,000/- from the HDFC Bank. The HDFC Bank disbursed that loan amount to the assessee as under:

*30-06-2007 Rs. 27,41,760/- to Mahindra Gesco Developers Ltd.  
28-06-2008 Rs. 13,70,240/- to Mahindra Gesco Developers Ltd.*

4. The Ld. AO observed that disbursement of loan was not made in year 2006-07. The disbursement took place in the year 2007-08 and accordingly the claim for indexation benefit of the assessee was restricted from the years the assessee made payment to Ms. Mahindra Gesco Developers Ltd. as-

*For an amount of Rs. 27,41,760/- FY 2007-08  
For an amount of Rs. 13,70,240/- FY 2008-09*

The Ld. AO considered the cost of the property at Rs. 41,12,000/- only noticing that the assessee failed to submit about the payment made for the balance amount.

5. Regarding the claim for registration charges of Rs. 3,63,648/-, the Ld. AO observed that the assessee did not furnish any proof thereon and the Master Agreement of the parties was an unregistered agreement. Accordingly, claim for registration amount disallowed.

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6. Aggrieved, the assessee filed 1<sup>st</sup> appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 16-03-2023 partially allowed the appeal of the assessee.

7. Aggrieved, the assessee filed the present appeal before the Tribunal.

8. Heard both the parties and perused the materials on record. We carefully considered the rival submissions of the parties. Also, perused the observations of the lower authorities. We observe that the assessee failed to furnish evidence regarding the payment of registration fees. The Ld. CIT(A) observed that even the copy of the conveyance deed has not been submitted by the assessee. In case the assessee submits copy of the conveyance deed the payment of stamp duty and payment of registration amount could be ascertained therefrom. Assessee expressed his inability to produce proof thereof. We agree to the observation of the Ld. CIT(A) that payment of stamp duty and registration fees can be ascertained from the conveyance deed under which the assessee acquired the property. The Ld. AR's submission that the assessee is an NRI and it is not possible to furnish such a proof and property has already been sold. We are unable to accept the submissions of the Ld. AR. We are of the view that assessee must submit evidence so as to prove his claim. Mere claim

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without any evidence cannot be accepted. Whether the assessee is an NRI or resident that is immaterial. As he, the assessee claimed registration charges, evidence thereof has to be furnished. As the assessee failed to furnish necessary evidence on the claim of payment of registration fees/ stamp duty, we uphold the observation of the Ld. CIT(A). Thus, this ground of appeal of the assessee is dismissed.

9. The assessee claimed that the cost of the property was Rs.51,84,000/- not at Rs.45,45,6000/-. The Ld. CIT(A) considered the Master Agreement dated 11-01-2007 and observed that the assessee was liable to pay Rs.45,45,600/- as cost of the property. Accordingly, the Ld. CIT(A) fixed the acquisition cost of the property at Rs.45,45,600/-. The balance amount is denied by the Id. CIT(A) saying that the assessee did not submit proof that the builder has realized that amount. The builder issued the receipt mentioning as “subject to realization” which was a conditional acceptance not the final acceptance of the amount on the part of the builder. Therefore, the observation of the Ld. CIT(A) cannot be held as incorrect one. The, total cost of the property payable by the purchaser is mentioned in the agreement executed between the vendor and the vendee. Moreover, the assessee failed to submit the conveyance deed through which the assessee acquired the property in 2008. The total sale consideration

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of an immovable property can also be ascertained from such conveyance deed. However, the assessee did not furnish the conveyance deed. Accordingly, we decide this ground also against the assessee.

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

*Order pronounced on 13<sup>th</sup> October, 2023.*

**Sd/-**  
**(मंजुनाथ. जी)**  
**(Manjunatha G)**

**लेखा सदस्य /Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 13<sup>th</sup> October, 2023.

EDN/-

**Sd/-**  
**(मनोमोहन दास)**  
**(Manomohan Das)**  
**न्यायिक सदस्य/Judicial Member**

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF