

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "A" :: PUNE

BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL
MEMBER AND
DR. DIPAK P. RIPOTE, ACCOUNTANT MEMBER

आयकर अपील सं. / ITA No.1015/PUN/2023
निर्धारण वर्ष / Assessment Year : 2014-15

Arun Tulshidas Kharat, Shri Khandelwal Jain & Associates, Level 3, Riverside Business Bay, Near RTO (Sangam Bridge), Wellesley Road, Pune – 411001. PAN: AFHPK6814Q	V s	The Deputy Commissioner of Income Tax, Circle-7, Pune.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Rajiv Thakkar – AR
Revenue by	Shri A D Kulkarni, IRS – DR
Date of hearing	04/12/2023
Date of pronouncement	12/12/2023

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the assessee directed against the order of Id.Commissioner of Income Tax(Appeal)[NFAC], dated 14.06.2023 under section 250 of the Income Tax Act, 1961 for A.Y.2014-15 emanating from assessment order under section 143(3) dated 21.12.2016.

2. The assessee has raised the following grounds of appeal :

“1. On facts and circumstances prevailing in the case and as per provisions & scheme of the Income-tax Act, 1961 ("the Act") it be held that the order passed by the First Appellate Authority without considering the submissions filed by the Appellant is unwarranted, unjustified and contrary to the provisions of the Act and facts prevailing in the case. The order passed be set aside. The disallowance sustained be deleted. The Appellant be granted just and proper relief in this respect.

2. Without prejudice to Ground No. 1 and On facts and circumstances prevailing in the case and as per provisions & scheme of the Act, it be held that disallowance of Rs.28,02,003/- made by the Ld. AO and further upheld by the First Appellate Authority is unwarranted, unjustified and contrary to the provisions of the Act and facts prevailing in the case. The disallowance so made be deleted. The Appellant be granted just and proper relief in this respect.

3. The Appellant prays that the appeal be allowed condoning the delay in filing the appeal. The Appellant be granted just and proper relief in this respect.

4. The Appellant prays to be allowed to add, amend, modify, rectify, delete, raise any grounds of appeal at the time of hearing.”

Brief facts of the case :

3. As emanating from the assessment order and submission of the ld.Authorised Representative(ld.AR) of the assessee, the assessee E-filed its Return of Income for A.Y.2014-15 on 20.01.2016. The assessee’s case was selected for scrutiny. The assessee has sold Flat No.1103, partly situated on 11th Floor and partly on 12th Floor in B-Wing along with adjacent terrace, car parks of “SHRINIWAS BLOSSOM BOULEVARAD CO. OP. HOUSING SOCIETY LTD.”, Village Ghorpadi for

Rs.3,50,00,000/- vide sale deed dated 27.06.2013. Assessee had shown income from Long Term Capital Gain(LTCG). Assessee had claimed deduction of Rs.2,67,85,735/- as Index Cost of Acquisition and Rs.37,18,767/- as Index Cost of Improvement. During the assessment proceedings, the Assessing Officer(AO) asked the assessee evidence for Cost of Improvement. Assessee filed bills, vouchers 37 in numbers. The AO observed that bill for Rs.4,47,339/- pertaining to F.Y.2012-13 was in the name of assessee. All other bills, vouchers were in the name of Wings Travel Management India Private Limited and Smt.Bharati Kharat. The AO issued a show-cause notice to the assessee.After considering the submission of the assessee, Assessing Officer disallowed assessee's claim of Index Cost of Improvement partially and made an addition of Rs.33,84,921/-. In the assessment order, AO also made addition of Rs.1,99,494/- under section 57 of the Act. It was observed by the AO that assessee had given loan to Wings Travel Management India Private Limited of Rs.3,74,61,162/- and earned interest of Rs.47,56,131/-. Assessee had borrowed loan of Rs.4,34,95,966/- and paid interest @11.25. AO disallowed interest expenditure of Rs.1,99,494/-.

3.1 Aggrieved by the assessment order, assessee filed appeal before the ld.CIT(A).

3.2 The ld.CIT(A) confirmed the additions made by the AO.

Submission of ld.AR :

4. The ld.AR filed a paper book containing 95 pages. Ld.AR pleaded that additional evidence was submitted before the ld.CIT(A) in the form of certain bills which were at page no.15 & 16 of the paper book, issued by Nutech Sales Corporation of Rs.2,07,362/- and Rs.8,189/-. The ld.AR submitted that ld.CIT(A) has not considered the additional evidence filed by the assessee. The ld.AR further submitted that assessee had purchased the impugned flat from the builder in raw condition and then, subsequently made civil work. Ld.AR also filed copies of the photographs to demonstrate the civil work. Ld.AR filed a date wise list of bills of the said civil work. Ld.AR vehemently submitted that AO and ld.CIT(A) failed to consider these evidences of extra work done by assessee which is nothing but cost of improvement.

Submission of ld.DR :

5. The ld.DR invited our attention to the order of the ld.CIT(A) to demonstrate that ld.CIT(A) had considered submission filed by the assessee. Ld.DR invited our attention to the list of bills filed by the assessee which is at page no.27 and 28 of the paper book and explained that most of these bills are in the name of Wings Travel Management India Private Limited and Smt.Bharati Kharat. Therefore, ld.DR submitted that AO and ld.CIT(A) have rightly considered only those bills which were in the name of the assessee and disallowed the bills which were not in the name of the assessee. Ld.DR also submitted that from the photographs, one cannot understand whether the photograph pertains the impugned flat or not! The ld.DR vehemently supported the order of the AO and ld.CIT(A).

Findings and Analysis :

6. We have heard both the parties and perused the records. The only ground which was pleaded before us was regarding cost of improvement. The assessee has filed paper book only with respect to his claim of cost of improvement. Therefore, the only issue before us for adjudication is cost of improvement.

6.1 We have perused the list of bills filed by the assessee which is at page no.27 and 28. Only following bills are in the name of Mr.Arun Khart.

04-Apr-12	Satyam Hardware	Being purchase of Hardware items for Blossom Projects Bill no. 10	3,701
18-Apr-12	Satyam Hardware	Being purchase of Hardware items for Blossom Projects Bill no. 33	22,302
02-Jun-12	Sathe & Company Pvt Ltd	Being payable for Bathroom Fittings as per Inv no. SCPL/12-13/PIV/CA1129.	15,944
9/08/202	Sathe & Company Pvt Lt	Camary Square Jali Jaquar Fittings	63179
09-Aug-12	Sathe a Company Pvt Ltd	Being payable for Bathroom fittings purchased for 1103, as per bill no. SCPL/12-13/PIV/CA2335	91,051
01-Sep-12	BLUE RAYS	Being Bill no 19103 dt 30.08.2012 against purchase of TPW 1162 LED Panels	27,039
05-Sep-12	National Packers ft Movers	Being paid for furniture packing charges as per bill no. 631 / 2012- 13.	4,500
08-Sep-12	BLUE RAYS	Being Bill no 19183 Dt 8.09.2012 against purchase of Electrical goods.	31,877
27-Sep-12	Satyam Hardware	Being Fevical purchased for Blossom project bill no. 315	1,744
26-NOV-12	Aircon Solutions	Being paid for Installation of Air Conditioners at Blossom 1103 Service apartment.	20,200
14-Dec-12	Trimurty Glasses	Being amt payable for Modi Mirror used in Blossom 1103 Bill amt 13192 Bill passed for Rs. 10000.	10,000
26-Dec-12	Trimurty Glasses	Being amt payable for Glass purchased for Blossom 1103 apartment Bill Amt Rs. 30623 Bill passed for Rs. 30000.	30,000
21-Jan-13	Stellaire	Being payable for SS Railing With Glass fittings as per bill no. ST /024/12-13	2,12,538
22-Feb-13	Lavish Hardware Collection	Being payable for bill no 2477 Hardware material used in Blossom Buleward Service apartment.	7,493

6.2 All other bills are either in the name of Wings Travel Management India Private Limited or Smt.Bharati Kharat. These bills are for hardware items like commercial ply, hinges, jaguar fittings, fevicol, laminates etc. Some of the bills are mentioned as under :

- Bill dt.05/11/12 in the name of WINGS Travels Management Pvt Ltd for Rs.1,15,400/- for 7 Split ACs.
- Bill dated 05.11.2012 in the name of Wings Travel Management India Private Limited for Crompton Ceiling Fans 07 pieces and Bajaj Ventilation Fans 05 pieces.
- Bill dated 25.12.2012 again in the name of Wings Travel Management India Private Limited is for water filter machine of Rs.16,450/-.
- Bill of Rs.6093/- issued by Sathe & Company Pvt Ltd in the name of Wings Travel Management India Pvt Ltd for Jaquar Mixer and Azure wash bowl.
- Bill dt.9/08/12 issued by G M Veneers & Ply of Rs.1,71,290/- in the name of Wings Travels.
- The bill dated 18.02.2012 issued by Nutech Sales Corporation is in the name of Wings Travel Management India Private Limited for Rs.2,07,362/-.
- Another bill dated 18.02.2012 issued by Nutech Sales Corporation is in the name of Wings Travel Management India Private Limited for Rs.8,189/-.

6.3 Thus, both the bills issued by Nutech Sales Corporation are in the name of Wings Travel Management India Private Limited and not assessee.

6.4 To claim cost of improvement, assessee has to establish that assessee had incurred expenditure for improvement of the Immovable Asset. However, the assessee failed to file any evidence to prove that the assessee had incurred expenditure for improvement of the impugned immovable asset. The Bills filed by the assessee are mainly in the name of Wings Travel Management India Private Limited, which is an independent entity. Assessee have advanced unsecured loan to Wings Travel Management India Private Limited and charged Interest.

6.5 Therefore, the Bills which are in the name of Wings Travel Management India Private Limited are not the proof of expenditure incurred by the assessee for improvement of the flat owned by him. The Assessee had filed copy of declaration signed by Accounts Manager of Wings Travel Management India Private Limited dated 15/06/2018 that Wings Travel Management India Private Limited had made payment of Rs.25,83,223/- during F.Y.2012-13 through various vendors

towards Flat No.B-1103 and company had not claimed the said expenditure. The said declaration of Wings Travel Management India Private Limited is a self-serving document and there is no independent evidence to support the declaration. We have also to take into consideration the fact that assessee is a Founder Director in Wings Travel Management India Private Limited and the letter is issued by Accounts Manager who is directly working under assessee being Director of the Company. Also, the letter is dated 15.06.2018 and assessee has not given any reason why the said declaration was not filed during the assessment proceedings! Therefore, we are of the view that the said declaration is of no help to the assessee. The Wings Travel management India Pvt Ltd is a company, which cannot incur expenditure for individual's flat.

7. Therefore, in these facts and circumstances of the case, since the assessee has failed to file the necessary documentary evidence for claiming Cost of Improvement and the Assessing Officer has already allowed assessee's partial claim of Cost of Improvement, to the extent of bills which are in the name of the assessee, we uphold the disallowance of Rs.33,84,921/- made by

the Assessing Officer. Accordingly, grounds of appeal raised by the assessee are dismissed. As we have already made it clear that ld.AR of the assessee has pleaded on only one issue i.e. Cost of Improvement. Therefore, we have decided only the issue of Cost of Improvement.

8. The ld.AR had pleaded before us with reference to the issue of cost of improvement that since ld.CIT(A) had not considered the documents filed by the assessee, it may be set-aside to ld.CIT(A). However, we have observed that ld.CIT(A) had considered the submission of the assessee. Hence, there is not merit in this pleading of the ld.Authorised Representative of the assessee.

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

Order pronounced in the open Court on 12th Dec, 2023.

Sd/-
(SS VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 12th December, 2023/ SGR*

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "ए"बेंच,

- पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

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