

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'D', NEW DELHI**

**Before Sh. Saktijit Dey, Vice President  
Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 9212/Del/2019 : Asstt. Year: 2016-17**

Rajiv Ghai, A-9, Pushpanjali Farms, Bijwasan, New Delhi-110061 (APPELLANT)	Vs	ACIT, Circle, Intl. Taxation-1(3)(1), New Delhi (RESPONDENT)
<b>PAN No. AMZPG2247C</b>		

**ITA No. 8490/Del/2019 : Asstt. Year: 2016-17**

ACIT, Circle, Intl. Taxation-1(3)(1), New Delhi (APPELLANT)	Vs	Rajiv Ghai, A-9, Pushpanjali Farms, Bijwasan, New Delhi-110061 (RESPONDENT)
<b>PAN No. AMZPG2247C</b>		

**Assessee by : Sh. Shray, Adv. &  
Ms. Neha Tripathi, Adv.  
Revenue by : Sh. Sanjay Kumar, Sr. DR**

<b>Date of Hearing: 10.10.2023</b>	<b>Date of Pronouncement: 26.12.2023</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeals have been filed by assessee and the Revenue against the orders of Id. CIT(A)-42, New Delhi dated 30.08.2019.

2. In ITA No. 9212/Del/2019, following grounds have been raised by the assessee:

*"1. Whether, on the facts and circumstances of the case and in law, the learned Commissioner of Income-tax Appeals ["CIT(A)"] erred in upholding the*

*Assessing Officer's ("AO") order of arbitrarily disallowing the deduction of Rs. 12,53,213/- towards the 'Cost of Improvement' in the Lucknow House u/s 54 of the Income-tax Act, 1961 ("ITA")?*

*2. Whether, on the facts and circumstances of the case and in law, the learned CIT(A) erred in disregarding the certificate dated March 14, 2019, issued by a registered Valuer stating that improvement carried out at Lucknow House such as installation of central air conditioning, modular kitchen, chimney and tube-well are part of the residential house essential to make the residential unit habitable?*

*3. Whether, on the facts and circumstances of the case and in law, the learned CIT(A) erred in upholding the AO's order of arbitrarily disallowing the deduction of Rs.13,80,146/- towards the 'Cost of Improvement' in the Bangalore House u/s 54 of the ITA?*

*4. Whether, on the facts and circumstances of the case and in law, the learned CIT(A) erred in upholding the AO's order of initiating interest proceedings under the applicable section 234A/234B/234C/234D of the ITA?"*

3. In ITA No. 8490/Del/2019, following grounds have been raised by the Revenue:

*"1. The Ld. CIT(A) has erred in facts and in law in deleting the disallowance of deduction u/s 54 of the IT Act, 1961 of Rs. 3,94,14,887/- towards Cost of Acquisition and Cost of improvement of the Bangalore House.*

*2. Whether on facts & circumstances of the case CIT(A) was right in holding that the assessee was eligible for deduction u/s 54 though the assessee did not purchase new house property himself rather got it as gift from parents."*

4. The assessee filed return of income declaring income of Rs.41,12,890/-. During the year, the assessee sold his residential house located at No. 9/21, Rana Pratap Marg, Lucknow ("Lucknow House") for a consideration of Rs.5,80,00,000/- which was purchased by the assessee on 15.06.1982 and claimed indexed cost of acquisition as Rs.97,09,344/- as a deduction in his working of computation of long term capital gains from the sale of the Lucknow house.

**Cost of improvement- Lucknow property:**

5. The Assessing Officer observed that the cost of acquisition alongwith cost of improvement of Rs. 97,09,344/- was based on valuation report of a registered valuer. The AO found on the basis of the statement of the valuer, the items included in cost of improvement are based solely on the version of the client. The AO observed that the photographs produced by the assessee were vague and insufficient to prove the year of incurrence of expenditure as claimed. Accordingly, the AO disallowed the indexed cost of improvement to the tune of Rs.12,53,213/- while computing the capital gain in this case.

6. The cost of improvement as claimed by the assessee across different years was as under:

Year	Improvements as recorded in valuation report	Cost of improvement according to valuation report
1983	5 ton central Air conditioning	Rs. 50,000
1999-00	Garage Canopy, Kota Stone, Drive way	Rs. 52,500
2005-06	New flooring in ground floor	Rs. 1,00,000
2010-11	Improvement in new kitchen and new	Rs. 95,000
2013-14	Improvement new flooring in entire	Rs. 1,25,000
2014-15	Tube well L.S. with connections and	Rs. 1,00,000

7. The Assessing Officer has also summoned the valuer, Sh. O.P. Bhatia and recorded his statement. After recording the statement, the AO made following observations based on valuation report and statement of the valuer.

*"1. Air conditioning, modular kitchen and kitchen chimney, tube-well and submersible pump are not a part of the building. The same view/position has been confirmed by the Valuer also in his statement. According to the valuer, CPWD guidelines for valuation of buildings also confirm this position. Therefore, expense relatable to air-conditioning, which has been shown as Rs. 50,000 in 1983 (after indexation, Rs. 4,95,872/-), expenses claimed on account of kitchen improvements of Rs. 95,000 in 2010-11 (after indexation Rs. 1,44,473) and expense on tube-well and submersible pump claim to have been made in 2014-15 of Rs.1,00,000/- (after indexation Rs. 1,05,566) deserves to be disallowed from the cost of construction and the cost of improvement.*

*2. All deductions are subject to production of confirmatory evidence in favour of incurrance of expenditure as claimed. It is agreed that the valuation report cannot be completely disregarded and parts of its that are based on evidence and is in line with existing CPWD guidelines and plinth area rates are acceptable. However, the figures and inclusions that, in the Valuer's own admission in his statement, are based solely on the version of the client (the assessee) cannot be accepted as they are not backed by any verifiable reasoning, or with any supporting documents. Even otherwise, the Valuer's report is one of the several documents that need to be taken into consideration while framing an assessment and cannot be the final worked regarding the cost of acquisition and cost of improvement. Photographs produced by the assessee are vague and insufficient to prove the incurrance of expenditure as claimed. The pictures are selective, do not indicate the year in which the expense was incurred and the cost, nor do they portray the exact specifications of the improvements made."*

8. From the above, we find that the AO has categorically accepted that Air conditioning, modular kitchen and kitchen chimney, tube-well and submersible pump are not a part of the building. The AO also accepts the fact that the building was valued as per the CPWD guidelines. Having said so, the AO holds that the expenses relatable to Air conditioning, modular kitchen and kitchen chimney, tube-well and submersible pump are not allowable as cost of improvement. The AO again agrees that the valuation report cannot be completely disregarded and parts of it are based on evidence and is in line with existing CPWD guidelines but has an objection that the photographs produced by the assessee are vague and insufficient to prove the incurrance of expenditure. The AO also held that the photographs do not portray the exact specification of the improvement made. It cannot be said that the house operated, made to live without a modular kitchen. The availability of submersible pump is a finding of fact and not mentioning it in the agreement doesn't entitle the deduction. All the improvements made necessarily lead to the improvement in the value of the sale. The authorities have blown hot & cold in disallowing the expenditure. The selective reading of the sale agreement and lack of mentioning of pump and modular kitchen cannot necessarily lead to disallowance. The AO could not bring anything on record that the statement given by the valuer is wrong on facts or had inconsistencies. Hence, we allow the appeal of the assessee on this ground.

**Cost of improvement- Bangalore property:**

9. In the case of Bangalore property, the assessee claimed an amount of Rs.13,80,146/- as cost of improvement which includes a sum of Rs. 12,00,000/- incurred for installation of lift. In this regard, the assessee submitted a handwritten note signed by one Sh. Manjunath admitting the receipt of Rs.4,50,000/- and Rs.3,75,000/- dated 10.09.2014 and 03.09.2014 respectively. We find that the revenue has not disputed the import of Pneumatic Vacuum Elevator (PVE) however held that it is not essential for the improvement of the house to make it habitable. Whether to have a lift in the house or not is certainly not the purview of the Assessing Officer. Notwithstanding that, we find that the father of the assessee, Brig. V. K. Ghai is 90 years old staying with the assessee which is also a fact on record before the AO. Hence, we hold that the sum of Rs. 12,00,000/- incurred for installation of lift is an allowable item of cost of improvement. The amount of Rs.1,80,000/- was made with regard to installation of the lift and the other sundry expenses to make the house habitable and hence the amounts are also to be allowed. Hence, we allow the appeal of the assessee on this ground.

**In ITA No. 8490/Del/2019 (Revenue Appeal)**

*Whether on facts & circumstances of the case CIT(A) was right in holding that the assessee was eligible for deduction u/s 54 though the assessee did not purchase new house property himself rather got it as gift from parents."*

10. We have gone through the entire record before us and find that the Id. CIT(A) had diligently, meticulously & conscientiously, after considering the Hon'ble jurisdictional High Court judgments in the case of ACIT Vs. Suresh Verma (135 ITD 102) & CIT Vs. Kamal Wahal (351 ITR 4) came to a valid conclusion that the investments have been made by the assessee from his bank account of Rs.17,65,000/- on 14.08.2014 and Rs.3,31,82,000/- dated 21.08.2014 for payment to Sh. V. Ravindran, seller of the property and the parents have gone to registration owing to the absence of the assessee in India. Further, it is also a fact that such registered property has also been gifted to the assessee by the parents on 10.06.2015. Hence, we decline to interfere with the order of the Id. CIT(A) invoking rule of purposive construction and object of Section 54F and allowing the deduction u/s 54F on the house registered in the name of the parents of the assessee.

11. In the result, the appeal of the assessee is allowed and that of the Revenue is dismissed.

Order Pronounced in the Open Court on 26/12/2023.

Sd/-

**(Saktijit Dey)**  
**Vice President**

**Dated: 26/12/2023**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**