

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Shri Girish Agrawal, Accountant Member**

**I.T.A. No. 1289/KOL/2019
Assessment Year: 2015-2016**

***Rydak Enterprises & Investment Ltd.,.....Appellant
Century Towers, 4th Floor,
45, Shakespeare Sarani,
Kolkata-700017
[PAN: AABCR4381D]***

-Vs.-

***Deputy Commissioner of Income Tax,.....Respondent
Circle-7(2), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

*Shri Manish Tiwari, A.R., appeared on behalf of the
assessee*

*Shri Prabhakar Prakash Ranjan, Addl. CIT, appeared
on behalf of the Revenue*

**Date of concluding the hearing : January 8, 2024
Date of pronouncing the order : January 17, 2024**

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals)-23, Kolkata dated 12.04.2019 passed for A.Y. 2015-16.

2. The assessee has taken five grounds of appeal, but its grievance revolves around a single issue, namely Id. CIT(Appeals) has erred in confirming the disallowance of Rs.12,34,541/-, which was claimed by the assessee against improvement cost while determining the capital gain required to be assessed in the hands of the assessee on sale of a property.

3. Brief facts of the case are that the assessee has filed its return of income on 21.09.2015 declaring total income of Rs.4,03,00,432/- with deemed total income under section 115JB of Rs.5,50,90,216/-. The case of the assessee was selected for scrutiny assessment and a notice was issued under section 143(2) of the Income Tax Act. The Id. Assessing Officer has discussed this issue in paragraph no. 4. The Id. Assessing Officer has observed that a long-term capital gain arose to the assessee after indexation was Rs.4,24,96,684/-. Thereafter he took note of the computation made by the assessee. It is available on page no. 4 of the assessment order. The total sale consideration received by the assessee was of Rs.5,97,50,000/- The assessee has debited improvement cost in this computation, which has been disallowed to the assessee by the Id. Assessing Officer and an addition of Rs.12,34,541/- was made to the capital gain computed by the assessee.

4. Thus the grievance of the assessee before the ld. CIT(Appeals) was that the ld. Assessing Officer has erred in disallowing a sum of Rs.12,34,541/- which was claimed by the assessee towards improvement cost. The ld. CIT(Appeals) was not satisfied with the contention of the assessee because it could not produce any evidence in support of such expenditure.

5. Before us, ld. Counsel for the assessee has filed an application for additional evidence to place on record the documents, which are being filed in the paper book running into 92 pages. He submitted that one of the expenditures in these documents is conversion charges paid to Delhi Development Authority. The details of such payments are available on page no. 26 of the paper book. Earlier this property was leasehold property. The assessee got it converted into freehold and paid roughly Rs.12,00,366/-. The assessee has sought permission to place on record the letter of the Delhi Development Authority, copy of the Bank cheque, which were paid by it and certain other details.

6. With the assistance of ld. Representatives, we have gone through the record carefully. After perusal of the documents on page no. 26, we are of the view that their genuineness is not much doubtful because these are documents generated at public authority. The payments have been made through account payee cheque, copy of the cheque book along with bank statements are sought to be filed by the assessee by way of additional evidence.

Thus we are of the view that for just disposal of the appeal, these documents are necessary since no opportunity was given to the ld. Assessing Officer to look into these documents. Therefore, we deem it appropriate to set aside this issue to the file of ld. Assessing Officer for re-adjudication this aspect. The assessee will be at liberty to file copies of documents which are sought to be filed by way of additional evidence before the Tribunal. The ld. Assessing Officer is directed to take them on record and thereafter decide the issue after considering these documents.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 17/01/2024.

Sd/-

**(Girish Agrawal)
Accountant Member**

Sd/-

**(Rajpal Yadav)
Vice-President (KZ)**

Kolkata, the 17th day of January, 2024

*Copies to : (1) Rydak Enterprises & Investment Ltd.,
Century Towers, 4th Floor,
45, Shakespeare Sarani, Kolkata-700017*

*(2) Deputy Commissioner of Income Tax,
Circle-7(2), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square, Kolkata-700069*

*(3) Commissioner of Income Tax (Appeals)-23,
Kolkata;*

(4) CIT- , Kolkata;

(5) The Departmental Representative

(6) Guard File

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.