

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “B” BENCH, AHMEDABAD**

**BEFORE SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER AND
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No.154/Ahd/2019
Assessment Year: 2012-13**

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|-----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|----------------------------------------------------------|
| Shree Yamuna Industries, 125, Platinum Plaza, Judges Bungalow Road, Bodakdev, Ahmedabad – 380 054. [PAN – ABSFS 9152 L] | Vs. | The Income Tax Officer, Ward – 3(2)(5), Ahmedabad. |
| (Appellant) | | (Respondent) |
| Assessee by | None | |
| Revenue by | Shri Vipul Chavda, Sr. DR | |
| Date of Hearing | 17.01.2024 | |
| Date of Pronouncement | 24.01.2024 | |

ORDER

PER SUCHITRA KAMBLE, JUDICIAL MEMBER :

This appeal is filed by the assessee against order dated 26.11.2018 passed by the CIT(A)-3, Ahmedabad for the Assessment Year 2012-13.

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

- “1. That on facts and in law the learned Commissioner of Income Tax (Appeals) has grievously erred in confirming the addition of Rs.66,04,135/- made as short term capital gains by adopting the Stamp Duty Valuation under Section 50C of the Act and also by disallowing the claim of cost of improvement while computing the capital gains.
2. In the alternate, and without prejudice, the learned Commissioner of Income Tax (Appeals) ought to have referred the matter to the DVO to ascertain the true market value for computing the capital gains”

3. The assessee is a firm and in the business of manufacturing of all types of corrugated boxes. The original return of income for Assessment Year 2012-13 was furnished on 23.03.2013 declaring taxable income of Rs.9,73,150/-. The return was processed under Section 143(1) of the Income Tax Act, 1961 on 16.05.2013. The

Assessing Officer observed that the assessee sold immovable property on 10.02.2012 i.e. during the previous year relevant to A.Y. 2012-13 vide Sale Deed R No.827/2012, S.R. Sanand for sale consideration of Rs.19,80,000/-. However, the fair market value of the said property was determined at Rs.76,63,265/- by Stamp Duty Valuation Department and Stamp Duty of Rs.3,75,500/ was paid by the party concerned. The information indicated that the transaction is covered under Section 50C of the Act. The assessment for A.Y. 2012-13 was taken up for scrutiny assessment by invoking provisions of Section 147/148 of the Act and accordingly statutory notices were issued. In response to the statutory notices, the assessee furnished written reply/clarification/explanation vide letter dated 16.11.2017. After taking cognisance of the assessee's reply, the Assessing Officer disallowed Short Term Capital Gain (STCG) to the extent of Rs.66,04,135/- thereby making addition of the same.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. At the time of hearing none appeared on behalf of the assessee despite giving several notices and in fact the notices were returned back with the postal remark "left". There was no new address filed by the assessee before the Tribunal and, therefore, we are proceeding on the basis of the submissions quoted in the Assessment Order and in the order of the CIT(A) in respect of assessee's grievance.

6. The Ld. DR submitted that the cost of improvement was disallowed by the Assessing Officer by giving reasonable justification, as the assessee has not proved the Actual cost of improvement in respect of the said property. The Ld. DR further submitted that the Assessing Officer as well as the CIT(A) has rightly made the addition and rejected the claim of the assessee in respect of calling upon the DVO's report.

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee has specifically called for DVO's report in respect of the sale consideration as well as fair market value determination by the Stamp Duty Valuation Department and the Stamp Duty paid by the assessee. In respect of cost of acquisition and cost of improvement, the assessee has given detailed submission before the Assessing Officer as well as before the CIT(A). The

CIT(A) has ignored the prayer of the assessee in respect of referring the matter to the DVO to ascertain the True Market Value for computing the capital gain. Therefore, it will be appropriate to remand back this matter to the file of the CIT(A) thereby calling upon the DVO to ascertain True Market Value for computing the capital gain and decide as per allow. Needless to say, the assessee be given opportunity of hearing by following the principles of natural justice. In case the assessee again fails to cooperate with the hearing before the CIT(A), the CIT(A) will take appropriate action and adjudicate the issue on merit.

8. In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on this 24th January, 2024.

Sd/-
(RAMIT KOCHAR)
Accountant Member

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 24th day of January, 2024

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Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad