

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "A", HYDERABAD

BEFORE  
SHRI RAMA KANTA PANDA, VICE PRESIDENT  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 489/Hyd/2023  
(निर्धारण वर्ष / Assessment Year: 2018-19)

Ramkumar Reddy Satty,  
Hyderabad  
[PAN : BAOPS4639E]

Vs. Assistant Commissioner  
of Income Tax,  
Central Circle-1(2),  
Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri S. Rama Rao, AR  
राजस्व द्वारा/Revenue by: Shri Shakeer Ahamed, DR

सुनवाई की तारीख/Date of hearing: 31/01/2024  
घोषणा की तारीख/Pronouncement on: 07/02/2024

आदेश / ORDER

**PER K. NARASIMHA CHARY, J.M:**

Aggrieved by the order(s) dated 25/09/2023 passed by the learned Commissioner of Income Tax (Appeals)-11, Hyderabad, in the case of Ramkumar Reddy Satty ("the assessee") for the assessment year 2018-19, assessee preferred this appeal.

2. Brief facts of the case are that a search and seizure operation was carried out on 04/03/2019 in the case of assessee and during the search, certain incriminating material pertaining to transfer of immovable properties was found. During the course of assessment proceedings,

learned Assessing Officer observed that the assessee has sold certain properties during the year under consideration and did not offer any capital gains on the said properties. Accordingly, learned Assessing Officer completed the assessment under section 153A of the Income Tax Act, 1961 ('the Act') duly bringing the capital gains to tax in respect of three properties, namely, flat at Ameerpet, plot at Jeedimetla and flat in Saifabad to the tune of Rs. 1,00,000/-, Rs. 1,99,333/- and Rs. 28,98,579/- respectively.

3. During the course of appellate proceedings, assessee contended that regarding the first addition of Rs. 1 lakh the facts are that the assessee sold Flat No. 402, Viswa Saga City, Ameerpet, Hyderabad vide regd. Sale Deed No. 754/2017, dated 24/04/2017 for a total consideration of Rs. 30 lakhs which was purchased by the assessee on 26/08/2016 for a total consideration of Rs. 29 lakhs. On the sale deed it was also mentioned that the assessee incurred the expenses of Rs. 1,74,000/- towards stamp duty and registration (Rs. 29,00,000 + 1,74,000/- = 30,74,000/-). Taking the same into consideration, learned CIT(A) deleted the addition made on the same, since the total sale consideration (Rs. 30 lakhs) is less than the cost of acquisition, but failed to compute the capital loss of Rs. 74,000/- in respect of that property.

4. As far as the second addition of Rs. 1,99,333/-, it was the contention of assessee before the learned CIT(A) that at the time of assessment proceedings, learned Assessing Officer considered the cost of acquisition as Rs. 12 lakhs, whereas actual cost of acquisition was Rs. 12,80,000/-. Further the assessee contended that he had incurred an amount of Rs. 1,85,000/- during the financial year 2014-15 for digging of borewell and construction of compound wall and the said expenses were debited to the capital account for the financial year 2014-15. Taking the same into consideration, learned CIT(A) allowed 50% of the expenses claimed.

5. In respect of the third addition of Rs. 28,98,579/-, assessee contended that the Fair Market Value (FMV) of the flat as on 01/04/2001 was Rs. 682,140/- as against the value adopted by the learned Assessing Officer at Rs. 3,82,140/- and also, the improvement expenses incurred by him was Rs. 10,20,000/- in the assessment years 2005-06 and 2008-09 respectively. SRO estimated the FMV at Rs. 330/- per sq.ft., and Rs. 15,000/- per sq. yard of land basing on which, the learned Assessing Officer computed the value of the flat area of 1158 sq. ft., at Rs. 3,82,140/- which according to the assessee worked out at Rs. 3 lakhs. In respect of the market value computation, learned CIT(A) considered FMV stated by the assessee as the correct valuation of the property and accepted the same.

6. Learned CIT(A), however, recorded that though the assessee furnished the capital accounts failed to furnish any other supporting evidence to prove the improvement expenses and, therefore, considering the claim of improvements done about 15 years back, allowed 50% of such development expenses. Learned CIT(A) accordingly directed the learned Assessing Officer to consider the FMV of the property as on 01/04/2021 at Rs. 6,82,140/- and also to allow the 50% of the claim in respect of improvements by the assessee.

7. There is no dispute on these facts. Since the learned CIT(A) found on verification of record that the cost of acquisition of the property at Ameerpet happens to be Rs. 30,74,000/- (cost of acquisition Rs. 29 lakhs and stamp duty and registration Rs. 1.74 lakhs), it missed the attention of the learned CIT(A) that when the property was sold at Rs. 30 lakhs, it resulted in capital loss of Rs. 74,000/-. Hence, in terms of Section 48 of the Act, the learned Assessing Officer will compute the capital loss at Rs. 74,000/-. Hence, grounds No. 2 & 3 are answered in favour of the assessee.

8. Coming to grounds No. 4 & 5, these grounds relate to the disallowance of 50% of the claim for expenditure incurred for

improvement of these two properties, both the learned Assessing Officer and learned CIT(A) recorded that though the assessee filed the capital accounts, failed to furnish any other supporting evidence in respect of such expenditure. Learned CIT(A) had already considered factors relating to the long loss of time and the probable expenditure. Even before us also no evidence is produced in that respect. Hence, we find it difficult to take a different view. We, therefore, confirm the findings of the learned CIT(A) on this aspect and dismiss these two grounds.

9. In the result, appeal of the assessee stands allowed in part.

Order pronounced in the open court on this the 7<sup>th</sup> day of February, 2024.

Sd/-  
**(RAMA KANTA PANDA)**  
**VICE PRESIDENT**

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated: 07/02/2024

TNMM

Copy forwarded to:

1. Ramkumar Reddy Satty, 8-2-684, Plot No. 9, Road No. 12, Banjara Hills, Hyderabad.
2. The ACIT, Central Circle-1(2), Hyderabad.
3. Pr.CIT(Central), Hyderabad
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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