

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

BEFORE  
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 653/Hyd/2023  
(निर्धारण वर्ष / Assessment Year: 2012-13)

Arjun Reddy Marri, Hyderabad [PAN : AJVPM3912B]	Vs.	Income Tax Officer, Ward-11(2), Hyderabad
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri A. Srinivas, AR  
राजस्व द्वारा/Revenue by: Shri M. Naveen Kumar, DR

सुनवाई की तारीख/Date of hearing: 12/02/2024  
घोषणा की तारीख/Pronouncement on: 13/02/2024

आदेश / ORDER

Aggrieved by the order dated 15/12/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Arjun Reddy Marri (the assessee") for the assessment year 2012-13, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is an individual. He did not file the return of income for the assessment year 2012-13, but on receipt of information that the assessee along with his brother transferred immovable property on 02/09/2011 for a consideration of Rs. 1.35 crores,

learned Assessing Officer issued notice under section 148 of the Income Tax Act, 1961 ('the Act') and also called for the information about the cost of improvement incurred between 1992 and 1994, and also obtained schedule rate of cost of construction from the Commissioner & Inspector General, Registration and Stamp Office (C&IG), Hyderabad. According to the C&IG, cost of construction was Rs. 155/- per sq. ft., whereas according to the assessee, it was Rs. 600/- per sq. ft., and assessee pleaded that the Government may not be applicable uniformly to all types of constructions and amenities. Learned Assessing Officer, however, rejected the contention of the assessee, computed the indexed cost of construction at Rs. 42,47,655/- and determined the capital gains at Rs. 90,98,500/-.

3. Assessee preferred appeal and filed before the learned CIT(A) a copy of the sale deed and valuation report dated 27/08/2005 on market value of the subject property obtained by the State Bank of India (SBI) from a Chartered Engineer and Valuers, showing it as Rs. 51.60 lakhs.

4. Learned CIT(A) on a reappraisal of the facts and consideration of the material before him, rejected the claim of the assessee at Rs. 600/- per sq. ft., as cost of construction, stating that there is no evidence to substantiate the same, and also the rate specified by the C&IG and adopted by the learned Assessing Officer at Rs. 155/- per sq. ft., on the ground that such a rate is in general and has nothing to do with the type of construction and amenities relating to the case of the assessee. Learned CIT(A), however, accepted the valuation done by the Chartered Engineer cum Valuer at the instance of the SBI in relation to the property of the assessee specifically, stating that such a report is very detailed and done by a qualified person.

Learned CIT(A) accordingly accepted the indexed cost of improvement at Rs. 79,61,426/- and determined the capital gains at Rs. 53,85,129/-.

5. Grievance of the assessee before us is that though the learned CIT(A) took the valuation report prepared by the Chartered Engineer cum Valuer at the instance of SBI as the basis for determination of the indexed cost of construction, he missed to notice that as on the date of such valuation, the plinth area of the ground and first floor was only Rs. 2,881 sq. ft., each as could be seen from such report, but when the property was sold under sale deed dated 02/09/2022, its plinth area was 4,259 sq. ft., for ground floor and first floor each. Learned AR submits that the difference extent of 1,378 sq. ft., for ground floor and first floor each was constructed by taking loan from SBI in the year 2005 and, therefore, the assessee is entitled for the reduction of the sale consideration under the sale deed dated 02/09/2022 by a further amount attributable to the new construction.

6. Learned DR submitted that learned CIT(A) was wrong in accepting the report of the Chartered Engineer cum Valuer at the instance of SBI without causing verification thereof by the learned Assessing Officer and, therefore, it must be open for the learned Assessing Officer to test the veracity of such report. Nextly, learned DR submitted that there is no basis for the assessee to seek the reduction of the capital gains by a further amount other than the sale deed, and, therefore, the same cannot be accepted.

7. I have gone through the record in the light of the submissions made on either side. It is a fact that learned CIT(A) accepted the valuation done

by the Chartered Engineer cum Valuer at the instance of the SBI in relation to the property of the assessee specifically stating that such a report is very detailed and done by a qualified person and accordingly accepted the indexed cost of improvement at Rs. 79,61,426/- and determined the capital gains at Rs. 53,85,129/-. There is no appeal by the Revenue against such findings. Be that as it may, the fact remains that the findings of the learned CIT(A) insofar as valuation of the cost of construction is concerned, they have become final, since both the parties do not challenge the same and I see no reason to re-visit the same.

8. Now the question is with such valuation being accepted, what should be the proper capital gains to be computed. Since the sale deed dated 02/09/2022 clearly says that the plinth area of the construction is 4,259 sq. ft., for each of ground floor and first floor, the same area must be taken for computation of capital gains. Since such capital gains are computed till the date of the sale deed dated 02/09/2022 in respect of 2,881 sq. ft., for each of ground floor and first floor, the assessee is entitled to seek the computation of further indexed cost of construction in respect of the balance of 1,378 sq. ft., i.e., constructed in or subsequent to 2005 after the valuation report of Chartered Engineer cum Valuer.

9. I, therefore, am of the considered view that the ends of justice would be met by directing the learned Assessing Officer to allow the indexed cost of construction in respect of the balance extent of 1,378 sq. ft., which was constructed in or subsequent to 2005 on verification. I therefore, direct the learned Assessing Officer to allow the indexed cost of construction on verification of year of construction of the balance extent

of 1,378 sq. ft., and re-compute the capital gains/loss. Subject to the above observation, grounds are allowed.

10. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this the 13<sup>th</sup> day of February, 2024.

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

Hyderabad,  
Dated: 13/02/2024

TNMM

Copy forwarded to:

1. Arjun Reddy Marri, Plot No. 3, Harshavardhana Colony, Old Bowenpally, Secunderabad.
2. Income Tax Officer, Ward-11(2), Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD