

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC' : NEW DELHI**

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER

**ITA No.2932/DEL/2023
(Assessment Year: 2017-18)**

Sachin Dhamija,
C-361, Majlis Park, Gali No.9,
Delhi – 110 033.

vs. ITO, Ward 36 (3),
New Delhi.

(PAN : AJIPD2855R)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : Shri Saurabh Rohtagi, CA
Shri Ashok Sharma, Advocate
REVENUE BY : Shri Om Prakash, Sr. DR

Date of Hearing : 28.02.2024
Date of Order : 04.03.2024

ORDER

This appeal by the assessee is directed against the order of the Id. CIT (Appeals)/National Faceless Appeal Centre (NFAC) dated 21.08.2023 for the assessment year 2017-18.

2. Grounds of appeal taken by the assessee read as under :-

“1(i) That on the facts and circumstances of the case, the Ld. CIT(A) was not justified in passing ex-parte order without proper opportunity and in contravention of principles of natural justice.

(ii) That in absence of adjudication of appeal on merits, the impugned order of Ld. CIT(A) is illegal and in total disregard to provisions of section 250 (4) & (6) of the Income Tax Act, 1961.

(iii) That the impugned order dismissing the appeal is not sustainable on facts and the same is bad in law.

2(i) That on the facts and circumstances of the case, the Ld. CIT(A) has grossly erred in upholding the addition of Rs.29,99,124/- being long term capital gain on sale of immovable property without appreciating the facts of the case.

(ii) That the fair market value of the property sold being less than stamp duty value, the addition made u/s 50C without considering the valuation report of the valuation cell is highly arbitrary and in total disregard to provisions of section 50C(2) and (3) of the Act.

(iii) That the upholding of addition u/s 50C(1) without calling for valuation report in terms of section 50C(2) is misconceived and contrary to law.

(iv) That on the facts and circumstances of the case, the Ld. CIT (A) was not justified in confirming the disallowance of indexed cost of improvement aggregating Rs.4,00,708/- even though the disallowance was without any valid justification or basis.”

3. At the outset, in this case, ld. Counsel of the assessee submitted that all the notices in this case were served by the ld. CIT (A) at a wrong email address, hence assessee had no opportunity to respond. He further submitted that by RTI application, he has obtained information that AO was to obtain DVO's report in this case which was not received at the time of passing of assessment order. In the circumstances, ld. Counsel for the assessee prayed that the matter may be restored to the file of AO to obtain DVO's report and thereafter pass the assessment order after giving an opportunity of hearing to the assessee.

4. In view of the above, in the interest of justice, I restore the issue to the file of AO. AO shall consider the issue afresh and decide the case as per law after providing an opportunity of being heard to the assessee.

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

Order pronounced in the open court on this 4th day of March, 2024.

**Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 4th day of March, 2024
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Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT (A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**