

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

BEFORE  
SHRI MANJUNATHA G., ACCOUNTANT MEMBER  
&  
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 660/Hyd/2023  
(निर्धारण वर्ष / Assessment Year: 2016-17)

Smt.Sampat Devi Sutaliya                      Income Tax Officer  
Hyderabad                                      Vs.      Ward 4(5)  
[PAN : AFVPS5182D]                              Hyderabad

अपीलार्थी / Appellant                              प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.A. Sai Prasad, CA  
राजस्व द्वारा/Revenue by: Shri Shakeer Ahamed, DR

सुनवाई की तारीख/Date of hearing: 05/06/2024  
घोषणा की तारीख/Pronouncement on: 05/07/2024

आदेश / ORDER

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

Aggrieved by the order dated 30/10/2023 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Sampat Devi Sutaliya ("the assessee") for the assessment year 2016-17, the assessee preferred this appeal.

2. Only question involved in this appeal is relating to the cost of construction in the year 1986-87 for computation of capital gains. Brief

facts relating to this issue are that the assessee purchased an open plot admeasuring 504 sq. yards on 4/2/1986 and having obtained permission on 8/10/1986 she got the old structure demolished and constructed a three-storey the building. She sold half a share in it for a sale consideration of Rs. 1,51 18,000/-. Since the assessee did not file any return of income for that year, case was reopened under section 147 of the Income Tax Act, 1961 (for short "the Act"). Assessee claimed cost of construction at Rs. 337.22/- per sq. ft, while computing the capital gains, but could not furnish any evidence to establish the same stating that since the transaction took place about 30 years back, no documentary evidence like bills and vouchers are not available. Claiming that the assessee did not furnish any evidence to prove the cost of construction in the year 1986-87, learned Assessing Officer disallowed the total claim for the indexed cost of improvement at Rs. 74, 79, 748/-.

3. Aggrieved assessee preferred appeal before the Ld. CIT(A) and pleaded that in the year 1986-87 she incurred an expenditure of Rs. 19,37,400/- for construction of the total plinth area of 5744 square feet, and the cost of construction attributable to the 50% share out of this, 5744 square feet comes to Rs. 9,68,700/- and the indexed cost thereof comes to Rs. 74,79,748/-. Learned AR submitted that when there is evidence sufficient to conclude that by demolishing the old structure, the assessee constructed a new building, denying the cost of construction in total is untenable and illogical. He further submitted that as rightly observed by the Ld. CIT(A) the business entities are supposed to keep the accounts of documents up to the period of 6 years, and therefore, to expect an individual to preserve the bills and vouchers for a period of more than 30 years will cause a lot of hardship. He, therefore, prayed that in the absence of any proof being produced by the assessee, it is always open for the authorities to take resorted to some estimate having regard to the cost of construction at any point of time in proximity to the period of construction. He produced a copy of the order dated 29/12/2006 passed in ITA No. 465

/Hyd/ 2003 in the case of ACIT vs. K Pratap Reddy for the assessment year 1997-98 where the Tribunal approved the cost of construction at Rs. 150/- per square feet and basing on that he submits that a reasonable estimate at Rs. 322/- could be made in this case because the construction in this case is about 5 years later.

4. Per contra, Ld. DR relied upon the orders of the authorities and submitted that since there is no evidence whatsoever that is produced by the assessee, it is not possible to allow the indexed cost of construction and, therefore, the authorities rightly disallowed the cost of construction.

5. We have gone through the record in the light of the submissions made on either side. Sale deed dated 13/2/1986 clearly show that the house was existing in the property purchased by the assessee and the assessee constructed a new building by obtaining permission from the municipal Corporation of Hyderabad wide permit No. 143/10, file No. 689/6/3/86, dated 8/10/1986. It is too much to expect that the assessee constructs a three-storey building of a plinth area of 5744 square feet without incurring any expenditure. Denial of the total cost of construction are indexed cost of construction amounts the same. We are unable to accept the same. In all fairness, the authorities should have estimated the cost of construction by taking clue from the cost of construction prevailing in that year or in some other year in proximity of such period. We therefore, deem it just and proper to estimate the cost of construction and allow it to the assessee.

6. A perusal of the order in the case of K Pratap Reddy (supra) clearly shows that for the construction in the year 1981, Ld. CIT(A) adopted the cost of construction at Rs. 150/- per square feet and it was approved by the Coordinate Bench of this Tribunal. By taking such estimate into consideration, we can reasonably reach the figure of Rs. 300/- per square feet for the year 1986-87. We adopt of the same. We accordingly direct the learned Assessing Officer to take the cost of construction at Rs. 300 per

square feet and allow the indexed cost of construction accordingly.  
Grounds are answered accordingly.

7. In the result, appeal of the assessee is allowed in part.

Order pronounced in the open court on this the 5<sup>th</sup> July, 2024.

Sd/-

Sd/-

**(MANJUNATHA G.)**  
**ACCOUNTANT MEMBER**

**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated:05/07/2024  
Pvv/SPS

Copy forwarded to:

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3. Pr.CIT Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE