

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

BEFORE SHRI VIJAY PAL RAO, JUDICIAL MEMBER
AND
SHRI B.M. BIYANI, ACCOUNTANT MEMBER

ITA No.273/Ind/2024
(Assessment Year: 2012-13)

Devi Prasad Ghoshal 3/D- 101, Regal Town, Awadhपुरी Piplani Bhopal	Vs.	ITO, Ward 5(4) Bhopal
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: ACOPG5772B		
Assessee by	Shri S.S. Deshpande, AR	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	08.08.2024	
Date of Pronouncement	09.08.2024	

O R D E R

Per Vijay Pal Rao, JM :

This appeal by assessee is directed against the order dated 02.02.2024 of the Commissioner of Income Tax (Appeal) National Faceless Appeal Centre (NFAC) Delhi, for A.Y.2012-13. The assessee has raised following grounds of appeal:

“1. That on the facts and in the circumstances of the case of the assessee the learned Commissioner Of Income Tax Appeals, NFAC was not justified in passing an order without providing the assessee an opportunity of being heard.

2. That on the facts and in the circumstances of the case of the assessee the learned Commissioner Of Income Tax Appeals, NFAC was not justified in passing an order without considering the case on merits.

3. That on the facts and in the circumstances of the case of the assessee the learned Commissioner Of Income Tax Appeals, Delhi was not justified in confirming the additions of Rs 48,61,990.00.

4. The assessee craves leave to add, alter amend or withdraw any ground of appeal on or before the time of hearing.”

2. At the time of hearing Ld. AR of the assessee has submitted that the CIT(A) has dismissed the appeal of the assessee while passing impugned order ex-parte. He has referred to the various notices issued by the CIT(A) against which the assessee filed the request for adjournment due to his old age of more than 85 years as well as medical problems. Thus, ld. AR has submitted that when the assessee already pointed out the reasons for non-compliance in the application for adjournment as the assessee is a senior citizen of 85 years and also seriously ill then dismissing the appeal of the assessee without giving further opportunity of hearing is not justified. He has further submitted that the AO has made an addition on account of cost of improvement of old property while computing long term capital gain for want of supporting evidence however, the AO did not issue any show cause notice to the assessee before making said addition. Thus, Ld. AR has pleaded that the matter may be remanded to the record of the AO for fresh adjudication.

3. On the other hand, ld. DR has raised no serious objection if the matter is remanded to the record of the AO for fresh adjudication after verification and examination of the record to be filed by the assessee in supporting of the claim of cost of improvement.

4. We have considered the rival submissions as well as relevant material on record. The assessee in the application for seeking adjournment of hearing explained the reasons of old age as well as illness for making written submissions and thereafter on the next date of hearing there was no response on behalf of the assessee and consequently the appeal of the assessee was disposed of ex-parte confirming additions made by the AO. We further note that the AO while passing the assessment order has disallowed the claim of cost of improvement in computing long term capital gain arising from sale of the residential house as well as deduction claimed u/s 54 of the Act. The AO has given reasons that the assessee has not provided any proof of cost of improvement for F.Y. 1980-81, 1982-83 & 1994-95 but there was no show cause notice issued by the AO on this issue before the claim of the assessee was disallowed. Accordingly in the facts and circumstances of the case, we are of the considered opinion that the assessee be allowed one more opportunity to produce relevant details and record in support of the claim of cost of improvement. Hence, the impugned order of the CIT(A) is set aside and the matter is remanded to the record of the AO for fresh adjudication of this issue of cost of improvement of old

residential house sold by the assessee after verification and examination of the supporting evidences to be filed by the assessee.

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

Order pronounced in the open court on 09 .08.2024.

Sd/-
(B.M. BIYANI)
Accountant Member

Sd/-
(VIJAY PAL RAO)
Judicial Member

Indore, 09 .08.2024

Patel/Sr. PS

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

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore