

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

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

ITA No.4026/Del/2024
Assessment Year: 2012-13

Sh. Vinay Kumar, H. No.220, Sector-11, Vasundhra, Ghaziabad, Uttar Pradesh	Vs.	Asstt. Commissioner of Income Tax, Circle-2, Ghaziabad
PAN :AKUPK7267P		
(Appellant)		(Respondent)

Assessee by	None
Department by	Sh. Sanjay Kumar, Sr. DR

Date of hearing	06.01.2025
Date of pronouncement	06.01.2025

ORDER

This assessee's appeal for assessment year 2012-13, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1065934259(1), dated 22.06.2024 involving proceedings under section 143(3) r.w.s 147 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

2. Case called twice. None appears at the assessee's behest. He is accordingly proceeded ex-parte.

3. Learned Departmental Representative vehemently argues during the course of hearing that both the lower authorities have rightly disallowed assessee's cost of improvement after indexation; coming to Rs.32,98,799/-, on account of his failure to plead and prove all relevant facts. He could hardly dispute the clinching facts acknowledged in the assessment order itself that although the assessee has filed the corresponding evidence of construction of boundary-wall, gate and soil filling, the address of the capital asset was shown 11/1139/1 than the correct one 3/1139/1, Vasundra, Ghaziabad. It is for this precise reason that learned departmental lower authorities have made the impugned disallowance.

4. I have given my thoughtful consideration to the assessee's pleadings and Revenue's foregoing contentions and see no reason to sustain the disallowance in entirety. This is for the precise reason that the facts emanating from the case file indeed indicate that the assessee's plot(s) hereinabove had indeed incurred expenditure; be it 11/1139/1 or 3/1134/1 (supra) and the department could not dispute that once the said former capital asset in the same vicinity made him to spend the expenditure, the very presumption would be there for the other plots as well.

5. Faced with this situation, it is deemed appropriate to restrict disallowance of Rs.32,98,799/- to a lumpsum figure of Rs.10 lakhs only with a rider the same shall not be treated as a precedent. The assessee gets relief of Rs.22,98,799/- in other words. Necessary computation shall follow as per law.

6. This assessee's appeal is partly allowed.

Order pronounced in the open court on 6th January, 2025

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 6th January, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi