

IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AGRA

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**1. आयकरअपीलसं./ ITA No. 81/Agr/2021
(निर्धारणवर्ष / Assessment Year: 2011-12)**

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**2. आयकरअपीलसं./ ITA No.82/Agr/2021
(निर्धारणवर्ष / Assessment Year: 2012-13)**

&

**3. आयकरअपीलसं./ ITA No.83/Agr/2021
(निर्धारणवर्ष / Assessment Year: 2013-14)**

Shri Ramji Das Gupta 27, Madhav Nagar, Gwalior	बनाम/ Vs.	ACIT-Circle-1, Gwalior
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ACOPG-5414-C		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Gourav Goyal, CA- Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri Shailendra Shrivastava – Ld. Sr. DR

सुनवाईकीतारीख/ Date of Hearing	:	12-02-2025
घोषणाकीतारीख / Date of Pronouncement	:	28-03-2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by assessee for Assessment Years (AY) 2011-12 to 2013-14 arises out of separate orders of first appellate authority. The facts and issues are admittedly the same. First, we take up appeal for AY 2011-12 which arises out of an order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC),

Delhi [CIT(A)] dated 19-08-2021 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 24-02-2014. The grievance of the assessee is disallowance of interest and computation of capital gains.

2. The Ld. AR, at the outset, placed on record the decision of Tribunal in assessee's own case for AY 2010-11, ITA No.152/Agr/2016 dated 09-10-2018 and stated that the issue of interest disallowance is already covered therein. This position could not be controverted by Ld. Sr. DR. Upon perusal of case records, the appeal is disposed-off as under.

Proceedings before lower authorities

3.1 The assessee claimed loss of Rs.14.67 Lacs under the head income from other sources due to the fact that it received interest of Rs.35.13 Lacs but it paid interest of Rs.50.47 Lacs. In other words, the assessee received interest at lower rates but paid interest at higher rates. The Ld. AO rejected the same and added the differential of Rs.15.34 Lacs to the income of the assessee.

3.2 The assessee sold one flat No.1005 for Rs.13.50 Lacs as against stamp duty value of Rs.14.08 Lacs. The Ld. AO added differential of Rs.0.58 Lacs invoking the provisions of Sec.50C.

3.3 The assessee also sold another flat No.217B for Rs.8.25 Lacs. Out of the same, the amount of Rs.0.25 Lacs was the share of the Land owners' society and Rs.8 Lacs was net consideration for the assessee. The Ld. AO did not allow the amount of Rs.0.25 Lacs.

3.4 The Ld. CIT(A) confirmed the interest disallowance for Rs.15.34 Lacs. No findings were rendered on the issue of Capital Gains. Aggrieved, the assessee is in further appeal before us.

Our findings and Adjudication

4. We find that the issue of interest disallowance is covered in assessee's favor by the decision of Tribunal for AY 2010-11, ITA No.152/Agr/2016 dated 09-10-2018. The SMC bench, at paras 6 to 8, accepted the stand of the assessee and deleted interest disallowance. Taking the same view, we delete impugned interest disallowance.

5. So far as the addition of Rs.0.58 Lacs is concerned, we find that difference in value is less than 5% and therefore, this addition stand deleted. The addition of Rs.0.25 Lacs stand confirmed since expenses relating to transfer of property only is an allowable deduction while computing capital gains. The gains are to be computed on sale consideration as mentioned in the sale deed. The appeal stand partly allowed.

6. In AYs 2012-13 & 2013-14, the sole grievance of the assessee is interest disallowance. The same stand decided in assessee's favor in terms of our adjudication for AY 2011-12.

7 ITA No.81/Agr/2021 stand partly allowed. The other two appeals stand allowed.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(SATBEER SINGH GODARA)
न्यायिक सदस्य /JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य /ACCOUNTANT MEMBER

Dated: 28-03-2025

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA