

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

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

आयकरअपीलसं./ ITA No. 285/Agr/2018
(निर्धारणवर्ष / Assessment Year:2015-16)

Shri Ashok Agarwal 37, Bharatpur House, Agra.	बनाम/ Vs.	ACIT, Circle 1(1)(1), Agra.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAMPA-0709-J		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Pankaj Gargh, Adv. – Ld. AR
प्रत्यर्थीकीओरसे/Respondent by	:	Sh. Shailender Shrivastava – Ld. DR

सुनवाईकीतारीख/Date of Hearing	:	20-02-2025
घोषणाकीतारीख /Date of Pronouncement	:	22.04.2025

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. The assessee’s appeal ITA No.285/Agr/2018 is a recalled matter vide MA No.10/Agr/2020 for the limited purpose of adjudication of Ground Nos. 7 & 8. It could be seen that assessee’s appeal was disposed-off by Tribunal vide common order dated 22-03-2019. The assessee preferred misc. application MA No.10/Agr/2019 on the ground that ground nos. 7 & 8 were not adjudicated by Tribunal. The same was accepted by the bench in its order dated 22-09-2023. Accordingly, the appeal has come up for fresh hearing for limited purpose of adjudication of ground nos. 7 & 8. In these grounds, the assessee challenges arbitrary 10% disallowance of expenses as claimed u/s 54 of the act. Upon perusal of para-8 of the assessment order, it could be seen that the assessee claimed various construction expenses while computing capital

gains. The Ld. AO opined that expenditure on lift, CCVT, Service of AC do not form part of the construction and accordingly, on estimated basis, Ld. AO disallowed Rs.25 Lacs on adhoc basis. The Ld. CIT(A) restricted the same to the extent of 10% of total expenses which worked out to Rs.4.80 Lacs. Aggrieved, the assessee is in further appeal before us.

2. Considering the nature of expenses, we are of the opinion that the above expenditure was incurred to make the residential unit livable and the expenditure was integral part of construction. This being so, the impugned disallowance as sustained in the impugned order could not be upheld. By deleting the same in full, we allow these grounds.

3. The appeal 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)
लेखासदस्य / ACCOUNTANT MEMBER

Dated: 22.04.2025

आदेशकीप्रतिलिपिअग्रेषित/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