

आयकर अपीलीय अधिकरण,सूरत न्यायपीठ, सूरत ।
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
[conducted through Hybrid mode]

श्री संजय गर्ग, न्यायिक सदस्य एवं
श्री बिजयानन्दा प्रुसेथ, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And
Shri Bijayananda Pruseth, Accountant Member

आयकर अपील सं./ITA No.919/SRT/2024
निर्धारण वर्ष /Assessment Year : 2017-18

Bipinbhai Chhaganbhai Jodhani 21, Swetrajhans Society Khodiyar Nagar Road Varachha Road Surat - 395 006	बनाम/ v/s.	The ITO Ward-3(3)(1) Surat - 395 001
स्थायी लेखा सं./PAN: ADDPJ 9297 Q		
(अपीलार्थी/ Appellant)		(प्रत्यर्थी/ Respondent)
Assessee by :		Shri Mehul Patel, AR
Revenue by :		Shri Mukesh Jain, Sr.DR

सुनवाई की तारीख/Date of Hearing : 07/04/2025
घोषणा की तारीख /Date of Pronouncement: 03/07/2025

आदेश/O R D E R

Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'CIT(A)'] dated 28/06/2024 passed u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Year (AY) 2017-2018.

2. The assessee has raised the following grounds of appeal:

(1) That on facts, in law, and on evidence on record, the learned National Faceless Appeal Centre (NEAC) has grievously erred in confirming the disallowance of claim of Indexed cost of Improvement of Rs.30,01,463/- made u/s 48 of the Act, while computing the Long Term Capital Gains.

(2) That on facts, in law, and on evidence on record, it ought to have been held that the appellant has not claimed any double deduction of Interest and the claims made u/s 24 and 48 of the Act are independent and mutually exclusive.

(3) The appellant craves leave to add, alter, amend any ground of appeal."

3. The brief facts of the case are that the assessee had filed his e-return of income on 15/03/2018 declaring total income of Rs.1,41,100/- for the year under consideration. The case was selected for scrutiny assessment through CASS under limited category.

3.1. During the course assessment proceedings, the AO noticed that the assessee had sold an immovable property for Rs.1,60,00,000/- and shown capital loss of Rs.8,22,012/-. In the computation of capital gain/loss the assessee had claimed Indexed cost of acquisition of Rs.1,38,20,549/- and Indexed cost of improvement of Rs.30,01,463/-. The details of property and computation was as under:-

Particular of Property	Sale Price/year	Indexed Cost/year	Indexed cost of improvement	Capital gain
Flat No.604, Mota Nagar, CHS Ltd. D Building, Andheri Kurla Road Andheri	1,60,00,000/- 01/10/2016	1,38,20,549/- 22/12/2010	30,01,463/-	(-)8,22,012/-

Mumbai - 400 099				
---------------------	--	--	--	--

The AO observed that the assessee had also claimed deduction of interest paid on home loan u/s.24(b) of the Act over the years. He observed that the assessee has also claimed deduction of interest paid on home loan as cost of improvement u/s.48 of the Act. The AO noted that it was a case of claim of double deduction, firstly, u/s.24(b) of the Act and then u/s.48 of the Act, of the same amount. He accordingly disallowed the claim of the assessee u/s.48 of the Act of Rs.30,01,463/- claimed by the assessee as cost of improvement on account of interest paid on home loan and made the impugned additions.

4. In appeal, the Ld.CIT(A) confirmed the additions made by the AO.

5. We have heard the rival contentions and gone through the record. The Ld. Counsel for the assessee has submitted that, it was not a case of claim of double deduction. He, in this respect, relied upon the following chart:

Appellant has claimed secured loan interest expense year-wise in following manner			
A.Y.	Total Housing Loan Interest	Claim u/s.24b	Claim u/s.48 Indexed Cost of improvement
A.Y.2012-13	6,33,092/-	1,50,000/-	4,83,092/-
A.Y.2013-14	7,60,042/-	1,50,000/-	6,10,042/-
A.Y.2014-15	6,80,996/-	1,50,000/-	5,30,996/-
A.Y.2015-16	6,45,820/-	1,50,000/-	4,45,539/-
A.Y.2016-17	5,63,178/-	1,50,000/-	3,63,178/-

The Ld.Counsel for the assessee has submitted that out of the total housing loan interest paid by the assessee has claimed deduction u/s.24(b) of the Act to the extent admissible, which was Rs.1,50,000/- per year. That, the assessee has claimed deduction u/s.48 of the Act, in respect of the remaining of amount of interest paid on home loan. He, therefore, has submitted that the deduction claimed u/s.24(b) of the Act has been deducted, while claiming Indexed cost of improvement u/s.48 of the Act, out of the total home loan paid. He, therefore, has submitted that it was not a case of claim of double deduction of the same amount.

6. The Ld. Departmental Representative, however, has relied upon the orders of the lower authorities.

7. It is not disputed that the assessee is entitled to claim of interest paid on housing loan as Indexed cost of improvement. The only objection raised by the lower authorities is that the assessee having claimed deduction u/s.24(b) of the Act was not permitted to claim deduction u/s.48 of the Act, at all even in respect of one remaining amount which was not part of deduction claimed u/s.24(b) of the Act. We do not agree with the aforesaid contention of the Ld. Departmental Representative. It is not a case of double deduction of the same amount. The assessee, in this case, has claimed deduction over the years u/s.24(b) of the Act, upto the extent of admissible amount, i.e. Rs.1,50,000/- out of total housing loan interest paid ranging from Rs.5 lakhs to 8 lakhs approximately. No doubt, the assessee is not entitled to double deduction on the same amount, however, there is no provision under the Act, barring the claim of deduction of the remaining of housing loan interest paid after deducting the amount for which deduction has already been claimed u/s.24(b) of the Act. We, therefore, restore the issue to the file

of the AO to verify the claim of the assessee and allow the Indexed cost of improvement to the assessee of the balance amount, after subtracting the amount of deduction already claimed u/s.24(b) of the Act over the years.

8. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 03/07/2025.

**Sd/-
(Bijayananda Pruseth)
Accountant Member**

**Sd/-
(Sanjay Garg)
Judicial Member**

दिनांक/Dated 03/07/2025

टी.सी.नायर, व.नि.स।T.C. NAIR, Sr. PS

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

1. अपीलार्थी / **The Appellant**
2. प्रत्यर्थी / **The Respondent.**
3. संबंधित आयकर आयुक्त / **Concerned CIT**
4. आयकर आयुक्त (अपील)/ **The CIT(A)- (NFAC), Delhi**
5. विभागीय प्रतिनिधि,आयकर अपीलीय अधिकरण ,सुरत /**AR,ITAT, Surat/Ahmedabad.**
6. गार्ड फाईल /**Guard file.**

// True Copy //

आदेशानुसार/ **BY ORDER,**

सहायक पंजीकार (**Asstt. Registrar**)
आयकर अपीलीय अधिकरण, **ITAT,Surat/Ahmedabad**