



आयकरअपीलीयअधिकरण,राजकोटन्यायपीठ,राजकोट।
**IN THE INCOME TAX APPELLATE TRIBUNAL, "SMC"
RAJKOT BENCH, RAJKOT**

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

आयकरअपील सं./ITA No.811/RJT/2025
निर्धारण वर्ष/Assessment Year : 2016-17

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|---|-------------|---|
| Vasantrai Pursotam Kachalia 210-Shrinathji Complex, Canal Road, Rajkot. Rajkot 360002, Gujarat India | बनाम/ Vs | ITO Ward 2(1)(1), Rajkot (Original - ITO Ward 2(1)(5), Rajkot) Aaykar Bhavan, Race course Road, Rajkot 360001 |
| स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: ADSPK1354Q | | |
| (अपीलार्थी/Assessee) | | (प्रत्यर्थी/Respondent) |

निर्धारिती की ओर से/Assessee by : Shri Fenil H. Mehta, Ld. AR
राजस्वकी ओर से / Revenue by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR

सुनवाई की तारीख/ **Date of Hearing** : **04/12/2025**
घोषणा की तारीख/ **Date of Pronouncement** : **31/12/2025**

आदेश/ORDER

Per, Dr. Arjun Lal Saini, A.M

Captioned appeal filed by the assessee, pertaining to Assessment Year 2016-17, is directed against the order passed under section 250 of the Income Tax Act, 1961 (hereinafter referred to as "the Act") by National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals) ('CIT(A)'), dated 04.11.2025, which in turn arises out of an assessment order passed by Assessing Officer u/s. 143(3) of the Act, on 23.11.2018.



2. Although, this appeal filed by the assessee, for Assessment Year 2016-17, contains multiple ground of appeals. However, at the time of hearing I have carefully perused all the grounds raised by the assessee. I find that most of the grounds raised by the assessee, are either academic in nature or contentious in nature. However, to meet the end of justice, I confine myself to the core of the controversy and main grievances of the assessee. The solitary and main grievance of the assessee in this appeal is that learned CIT(A) erred in making the disallowance on account of index cost of improvement at Rs.18,49,139/-, despite the fact that assessee had submitted during the assessment proceedings, all the documents and evidences to prove the claim of index cost of improvement at Rs.18,49,139/-.

3. The relevant material facts, as culled out from the material on record, are as follows. Assessee, filed a return for assessment year (A.Y.) 2016-17, declaring a total income of Rs.2,84,180/- and agricultural income of Rs.29,13,740/-. Upon scrutiny assessment, during the course of assessment proceedings it was revealed that the claimed agricultural income was mistakenly declared instead of profit from the sale of a flat. The Assessee clarified that he was not an agriculturist and had no agricultural land; the "agricultural income" was actually profit received from selling his Mumbai flat for Rs.35 lakhs. Supporting documents, including sale deeds and computation were provided and a revised return correcting the mistake was filed with no agricultural income shown. The assessee also claimed certain expenditures, as cost of improvement on the flat for the purposes of calculating long-term capital gain but failed to provide supporting evidence for these claims. The case was initially selected for limited scrutiny but was subsequently converted into complete scrutiny on account of potential additions exceeding Rs.5 lakhs. During the assessment proceedings, the Assessing Officer examined the Assessee's



claim of cost of improvement amounting to Rs.3,76,000/-, which was indexed to Rs. 18,49,139/- and claimed as a deduction against long-term capital gains.

4. The Assessing Officer observed that the claimed expenditure of Rs.1,81,000/- purportedly incurred in 1987 towards furniture and renovation was not credible, as the amount exceeded the original purchase price of the flat and no supporting evidence was furnished. Similarly, the further claims of Rs.1,50,000/- and Rs.45,000/-towards renovation expenses alleged to have been incurred in the year 2004 were also disallowed due to lack of any documentary proof. In the absence of any substantiation for the expenditure, the Assessing Officer disallowed the entire indexed cost of improvement amounting to Rs. 18,49,139/- leading to a corresponding addition to the assessed long-term capital gains.

5. Aggrieved by the order of the assessing officer, the assessee carried the matter in appeal before the CIT(A) who has confirmed the action of the assessing officer. The learned CIT(A) has just reiterated the findings of the assessing officer and sustained the addition made by the assessing officer. Dissatisfied with the findings of the learned CIT(A), the assessee is in further appeal before this Tribunal.

6. Learned Counsel for the assessee submitted that so far index cost of improvement is concerned, the assessee has submitted all possible evidences, however they were not considered by the lower authorities in right perspective. The assessee also calculated capital gain in his return of income and computation of income is also submitted in a revised return. The Id. Counsel submitted that the assessee under consideration is a poor assessee who has engaged one advocate to handle this case, however, the advocate by mistake shown the agricultural income



instead of long-term capital gain in the return of income, therefore, the assessee should not be penalized because of the mistake committed by his advocate. The indexed cost of the renovation expenses is amounting to Rs. 13,97,579/- and original cost of which was Rs.1,81,000/-, which was taken by the assessee, while computing the income under the head Long Term Capital Gain. The indexed cost of the renovation expenses is amounting to Rs. 3,50,216/- and the original cost of which was Rs.1,50,000/-, which was taken into account while computing the income under the head Long Term Capital Gain. The indexed cost of the renovation expenses is amounting to Rs. 1,01,344/-, and the original cost of which was Rs.45,000/-, which was taken into account while computing the income under the head Long Term Capital Gain. Therefore, total indexed cost of improvement was claimed by the assessee to the tune of Rs.18,49,139/-, which is supported by genuine documentary evidences. Therefore, addition of Rs.18,49,139/-, made by the assessing officer may be deleted.

7. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the Assessing Officer, which we have already noted in our earlier para and is not being repeated for the sake of brevity.

8. I have given thoughtful consideration to rival contention. I have perused case file as well as paper books furnished by assessee with the able assistance of Shri Fenil H. Mehta, advocate, representing the assessee and Shri Abhimanyu Singh Yadav, Learned DR, representing the Revenue. I find that one key issue arises for my apt adjudication, in the instant lis, which is, whether the indexed cost of improvement claimed by the assessee with supporting documents, to the tune of Rs.18,49,139/- is correct or not. I note that ground raised by the assessee relates to the disallowance of the cost of improvement claimed in respect of the Mumbai flat sold during the



relevant year. The Assessee had claimed an aggregate expenditure of Rs.3,76,000/- towards renovation and furniture expenses, stated to have been incurred on various dates, and after applying indexation, claimed a deduction of Rs. 18,49,139/- against long-term capital gains, which was disallowed by the assessing officer. I find that the Assessing Officer erred in disallowing legitimate costs of furniture and renovation for the flat, totaling Rs.3,76,000/-, which formed the basis for claiming deduction in the computation of long-term capital gains. It was contended that these expenditures were genuine and incurred in connection with the property and were not properly considered or appreciated by the Assessing Officer during the course of the assessment proceedings. Furthermore, the assessee asserts that the revised return and supporting explanations offered were not given due regard, by the assessing officer. Therefore, disallowances, predominantly made on presumptions and surmises rather than cogent reasons or material evidence.

9. I note that the assessee, vide letter dated 04.10.2018, has submitted, before assessing officer, copy of ledger account of Agro Plastics, and also share trading account, copy of transaction ledger, and bills, etc. The assessee has vide, letter dated 11-10-2018 has submitted copy of acknowledgement of returns of income alongwith copy of accounts, computation of income for A.Y.2003-04, 2004-05 & 2005-06. Further, notice u/s.142(1) of the Act, dated 13.10.2018 was issued to the assessee calling for details of cost of improvement of Rs.1,81,000/- claimed to have incurred on 28.03.1987 and then indexed cost of improvement claimed at Rs.13,97,579/- on or before 22.10.2018, and also show caused as to why cost of improvement of Rs.1,81,000/- claimed to have incurred on 28.03.1987 and then indexed cost of improvement claimed at Rs. 13,97,579/- should not be disallowed and why long- term capital gain should not be worked out accordingly. In reply to



above notice u/s.142(1) dated 13.10.2018, the assessee has vide, letter dated 30.10.2018 has submitted that he has purchased flat at Mumbai for consideration of Rs.1,40,000/- on 18.03.1987 and has incurred expenses for renovation work by replacing tiles, colour work, and plaster work, in that year at Rs.1,81,000/-. Therefore, the cost of improvement at Rs. 1,81,000/- and the indexed cost of improvement claimed at Rs. 13,97,579/-. In addition to this, the indexed cost of the renovation expenses is amounting to Rs. 3,50,216/- and the original cost of which was Rs.1,50,000/-, which was taken into account while computing the income under the head Long Term Capital Gain. The indexed cost of the renovation expenses, amounting to Rs. 1,01,344/-, and the original cost of which was Rs.45,000/-, should be considered.

10. I have gone through the details of cost of improvement and indexed cost of improvement claimed by the assessee and noted that assessee has also submitted some self- servicing documents which should not be relied fully. Therefore, I note that assessee has provided the possible evidences for indexed cost of improvement but there are some inherent weaknesses in the evidences furnished by the assessee, therefore, taking into account the holistic view, I am of the considered opinion that addition @ 10% on the amount of Rs. 18,49,139/-, would be sufficient to protect the interest of the Revenue. Hence, considering the above facts, I find little merit, in the documents and explanations submitted by the assessee. Therefore, I find that while the case of the assessee merits some relief, at the same time entire relief cannot be permitted to the assessee. In my view the ends of justice would be met, if 10% of Rs. 18,49,139/-, which comes to Rs. 1,84,913/-, should be disallowed in the hands of the assessee, since the same would take care of the inconsistencies, in the various documents and evidences submitted before the lower authorities. Therefore, in order



to plug the leakage of revenue, I direct the assessing officer to consider indexed cost of improvement at Rs. 16,64,226/- (Rs. 18,49,139- Rs. 1,84,913), in the hands of the assessee, to compute the long-term capital gain.

11. In the result, appeal filed by the assessee is partly allowed in above terms.

Order pronounced in the open court on 31/12/2025.

Sd/-
(Dr. Arjun Lal Saini)
लेखा सदस्य/Accountant Member

राजकोट /Rajkot
दिनांक/ Date: 31/12/2025

Copy of the Order forwarded to

1. The Assessee
2. The Respondent
3. The CIT(A)
4. Pr. CIT
5. DR/AR, ITAT, Rajkot
6. Guard File

(True Copy)

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot