

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR “SMC” BENCH : NAGPUR
(Through virtual)
BEFORE DR. MANISH BORAD, ACCOUNTANT MEMBER

I.T.A.No.511/NAG/2025
(Assessment Year : 2014-2015)

Late Sharad Shankar Kale, Plot No. 113, Reshimbagh, Nagpur. (through legal heir Smt. Snehal Sharad Kale) PAN : ACXPK 3227 G (Appellant)	vs.	ITO, Ward-5(1), Nagpur. (Respondent)
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For Assessee :	Mrs. Anchal Gupta, CA
For Revenue :	Shri Surjit Kumar Saha, Sr.DR

Date of Hearing :	02.02.2026
Date of Pronouncement :	10.02.2026

ORDER

This appeal at the instance of the assessee is directed against the order of Ld. ADDL/JCIT-6, Kolkata [“CIT(A)”], dated 20/06/2024 passed u/s. 250 of the Income Tax Act, 1961 (for short, 'the Act') which is arising out of assessment order dated 14.10.2019 passed u/s. 143(3) r.w.s. 148 of the Act by the ITO, Ward-5(1), Nagpur, for the Assessment Year 2014-15 (A.Y.)

2. Registry has informed that there is a delay of 348 days in filing the instant appeal. Application for condonation of delay along with affidavit has been filed and placed on record. Ld. Departmental Representative (DR) opposed for condonation of

delay. I have gone through the contents of the affidavit and the reasons stated for delay and find that the same are reasonable cause and the assessee had *bonafide* reason giving rise to this delay and also find that the delay is not intentional and the assessee has not gained by delay in filing the appeal. Therefore, adopting a justice oriented approach and also taking guidance from the judgments of Hon'ble Apex Court in the case of *Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors.* [(1987) 2 SCC 107] and in the case of *Inder Singh Vs. State of Madhya Pradesh* judgment dated 21.03.2025 (2025 INSC 382), I hereby condone the delay of 348 days in filing of the instant appeal before this Tribunal and admit the appeal for adjudication.

3. The grievance of the assessee is twofold. Firstly that proper opportunity of hearing has not been granted by the Ld.CIT(A) and, secondly on merits that Ld. Assessing Officer (AO) erred in not allowing the deduction for indexed cost of acquisition and improvement of the property sold by the assessee during the year.

4. At the outset, learned counsel for the assessee submitted that Late Shri Sharad Kale sold immovable property during the F.Y. 2013-14 relevant to A.Y. 2014-15 at a sale consideration of ₹ 23,99,199/-. However, since the stamp duty valuation of the property was ₹ 35,13,000/-, assessee has computed the

capital gain taking the sale consideration at ₹ 35,13,000/-.

Further, assessee has incurred expenditure on improvement during the F.Ys. 2001-02, 2004-05 & 2008-09 totalling to ₹6,85,950/- and indexed cost for such improvement is computed at ₹13,27,061/-, however, Ld.AO has not allowed the said deduction, without considering the fact that in the registered sale agreement, there is a specific mention of the construction of triple storeyed building on the plot No. 59 covering built up area 294.599 sq.mts. She fairly admitted that deceased-assessee did not had necessary details for incurring such improvement cost, however considering the fact that there was a construction of triple storeyed building, assessee deserves deduction for indexed cost of improvement.

5. On the other hand, Ld. Departmental Representative (DR) supported the order of Ld. CIT(A).

6. I have heard rival contentions and perused the records placed before me. I observe that assessee is an individual and she furnished return of income on 19.08.2019 declaring income of ₹ 1,88,421/-. In the income tax return, assessee has disclosed the income from capital gain of ₹ 30,342/- from the sale of immovable property located at BESA, P.S.K. 38, Nagpur. So far as sale consideration of the property is concerned, there is no dispute at the end of both the parties. The issue is only regarding the genuineness of the claim of

indexed cost of improvement of ₹ 13,27,061/-. In the computation of income, assessee has claimed that she incurred improvement cost of ₹ 1,63,250/-, ₹ 2,91,200/- and ₹2,31,500/- during the F.Ys. 2001-02, 2004-05 & 2008-09 respectively and total comes to ₹ 6,99,075/-. The indexed cost of improvement has been calculated at ₹ 13,27,061/-. In the absence of necessary documentary evidence exhibiting incurring of alleged improvement cost, both the lower authorities have denied the alleged claim. However, learned counsel for the assessee has brought to my attention about the contents of the registered sale agreement at page 5 where there is a description of the immovable property sold by the assessee and it is stated that on the land bearing plot No.59, there is a triple storeyed residential house covering a built up area of 294.599 sq. mts. The construction in square feet comes to 3171 and if the total cost of improvement i.e. 690075 is divided by 3171 sq.ft., then per square feet construction cost comes to ₹ 217.62. It is claimed that nominal amount of improvement cost has been claimed by the assessee. Ld. DR also failed to controvert the fact that triple storeyed residential building stood constructed on the immovable property situated at plot No. 59, Shilpa Gruha Nirman Sahakari Sanstha, Nagpur.

7. Considering the fact that assessee has expired on 14.02.2019 i.e. much before completion of assessment

proceedings and the legal heir-Smt. Snehal Sharad Kal is representing on behalf of the deceased-assessee. Even though, necessary details about incurring of such improvement cost is not available on record, but in the interest of justice and considering the peculiar facts of the case, I deem it appropriate to allow 80% of the cost of improvement claimed by the assessee for the three F.Ys. referred (supra) and the same shall give part relief to the deceased-assessee. Ld. Jurisdictional Assessing Officer (JAO) is directed to calculate the revised indexed cost of improvement by adopting 80% of the improvement cost claimed by the assessee in the income tax return for the respective F.Ys. and after due calculation of indexed cost of improvement, assessee shall be granted the deduction for the same against the sale consideration shown in the income tax return. Finding of the Ld.CIT(A) is set aside and the grounds of appeal raised by the assessee are partly allowed.

8. In the result, appeal of the Assessee is partly allowed as per the terms indicated above.

Order pronounced in the open Court on 10.02.2026

Sd/-
[MANISH BORAD]
ACCOUNTANT MEMBER

Dated : 10th February, 2026

vr/-

Copy to

1.	The appellant
2.	The respondent
3.	The Pr.CIT, Nagpur concerned.
4.	D.R. ITAT, SMC Bench, Nagpur.
5.	Guard File.

//True Copy //

By Order

Senior Private Secretary
ITAT, Nagpur