

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH: BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA No.1794/Bang/2025
Assessment year: 2018-19

Musheer Ahamed, No.C 15, PWD Quarter, 1 st Cross, Diagonal Road, Vasanth Nagar, Bangalore – 560 052. PAN: AOJPA 5129F	Vs.	The Income Tax Officer, Ward 1(2)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	Shri Pani Kumar, CA
Respondent by	:	Shri Subramanian, Jt.CIT (DR)(ITAT), Bengaluru.

Date of hearing	:	08.01.2026
Date of Pronouncement	:	17.02.2026

ORDER

Per Prashant Maharishi, Vice President

1. This appeal is filed by Mr Musheer Ahamed [the assessee/appellant] for assessment year 2018 – 19 against the appellate order passed by the National Faceless Appeal Centre, Delhi (the learned CIT – A) dated 23 May 2025 wherein the appeal filed by the assessee against the reassessment order passed under section 147 read with section 144B of

the Income Tax Act, 1961 [the Act] dated 3 March 2023 passed by the National E-Assessment Centre, Delhi (the learned assessing officer) was dismissed.

2. The assessee is aggrieved with the same and has preferred this appeal raising several grounds of appeal however the grievance of the assessee is regarding computation of capital gain on sale of property wherein the learned assessing officer has disallowed the complete cost of construction and selling expenses while computing the capital gain on sale of a property.
3. The assessee is an individual, did not file any return of income. However the assessing officer was having information that assessee has received a contract receipt of ₹ 86,625, professional fees of ₹ 65,000 and also sold an immovable property for ₹ 85 lakhs. The assessing officer issued notice under section 143 (2) of the Act and further issued several other notices including the show cause notice but the compliance by the assessee was scanty and did not submit complete information. Assessee merely submitted the copy of purchase deed and statement of bank account along with audited account in response.
4. The learned assessing officer noted that assessee has sold a property for ₹ 85 lakhs which was purchased by him on 11 August 2016 for ₹ 2,445,000. After considering the stamp duty and registration cost of the properties so purchased, the total cost of acquisition was ₹ 2,606,960. The assessee sold the above property on 23 March 2018 for ₹ 85 lakhs. In the return of income filed by the assessee in response to notice

issued under section 148 of the Act the assessee has shown short-term capital gain of ₹ 988,040. Therefore the learned assessing officer noted that assessee has claimed cost of improvement of ₹ 4,820,000 and also claimed selling expenses of ₹ 85,000 which assessee has failed to substantiate. Accordingly, he held that assessee has failed to substantiate the cost of improvement of ₹ 4,820,000 and selling expenses of ₹ 85,000, the claim of the assessee was rejected. Accordingly he made an addition of ₹ 4,905,000 in the assessment order passed under section 147 read with section 144B of the Act on 3 March 2023 determining the total income of the assessee at ₹ 5,852,350 against the return of income filed in response to notice under section 148 of Act of ₹ 947,350.

5. The assessee aggrieved with the same preferred an appeal before the learned CIT – A and assessee submitted that assessee has incurred the construction cost on the above said property amounting to ₹ 4,820,000 and also attached the cost of estimation from the certified engineer. With respect to selling expenses of ₹ 85,000 assessee furnished the copy of the sale deed. The learned CIT – A found that assessee has submitted the estimated cost of construction of the structure on the above building by the Builtech, Architect And Engineers, however the assessee has failed to furnish the building plan approval from the municipal or local authority, commencement certificate, completion certificate or occupancy certificate, construction contract, etc., or any evidences for the use of material for construction of the building. In absence of these documents the learned CIT – A rejected the claim of

the assessee of the deduction of the cost of improvement of ₹ 4,820,000 and further as there is no evidence available of ₹ 85,000/- for selling expenses, he confirmed the action of the learned assessing officer and dismissed the appeal of the assessee.

6. Assessee aggrieved with the same is in appeal before us which is delayed by 13 days. The assessee has submitted an affidavit as well as the application for condonation of delay. It was submitted that assessee was not aware about the notices or order issued electronically on the email ID of the assessee as it was issued and served on the email ID of authorised representative. However as soon as the assessee came to know about the passing of the appellate order, preferred an appeal before the Tribunal which is delayed by 13 days. It was submitted that above delay is nominal, unintentional and for sufficient cause, therefore same is prayed to be condoned.
7. The learned departmental representative vehemently objected to the same and submitted that there is no sufficient cause shown by the assessee and hence the delay cannot be condoned.
8. We have carefully considered the rival contention and perused the order of the learned lower authorities as well as the affidavit of the assessee as well as the application for condonation of delay. In the present case the appeal is filed on 13 August 2025 whereas the order of the learned CIT – A was received by the assessee on 15 June 2025 and therefore the appeal is delayed slightly by 13 days. We find that the email ID of the assessee's counsel was mentioned, the appellate orders

were communicated on that email ID and as soon as the assessee came to know about the appellate order, he filed the appeal before the Tribunal. Despite the above, the appeal of the assessee was delayed by 13 days. We find that the reasons shown by the assessee is sufficient and therefore the delay of 13 days is condoned and appeal of the assessee is admitted.

9. The learned authorised representative vehemently submitted that that what assessee has purchased is shown in the absolute sale deed dated 11th day of August 2016. What assessee has sold is stated in absolute sale deed dated 21 March 2018. He referred to the schedule of the property of purchase deed as well as the sale deed. He submitted that assessee has purchased an open plot of land on which the assessee has constructed approximately 4000 ft² of building consisting of ground floor +2 floors. He submits that the assessee has constructed roughly 4000 ft² on that plot of land. For this the assessee does not have the evidence of purchase bills etc., but submitted the estimated cost of construction. These was denied by the learned lower authorities. He submitted that the learned CIT – A has rejected the claim of the assessee for the reason that assessee did not submit the completion certificate, commencement certificate as well as the cost of material consumed in construction. He submitted that these details were never asked otherwise the assessee would have submitted. He submitted before us the building license fees paid by him on 21 February 2017 of ₹ 35,300 for construction, he also submitted certain permissions of Bengaluru Mahanagara Palike. The assessee also submitted the

approved plan of the construction. He submitted that electricity supply connection details are also showing that there is a huge construction carried out by the assessee. And therefore the refusal to grant deduction of the cost of construction has resulted into injustice to the assessee.

10. The learned departmental representative vehemently submitted that assessee has failed to submit the above details before the learned lower authorities and therefore no infirmity can be pointed out in those orders. And it was further stated that the details now produced by the assessee deserves to be verified by the learned lower authorities.
11. We have carefully considered the rival contention and perused the orders of the learned lower authorities. The fact shows that the assessee has purchased a property on 11 August 2016 for ₹ 2,445,000. The assessee has constructed ground +2 floors on the above property. This property was sold on 21 March 2018 to one Mrs. Srilatha for ₹ 85 lakhs. On comparing the schedule of the property of the purchase deed as well as the sale deed it is apparent that both the size and the constructed area of the property are different. Therefore the assessee has incurred certain construction cost on the property after it was purchased. Therefore it is clear that assessee has incurred cost of construction thereon. Before the learned CIT – A assessee has produced an estimate of the cost of construction of the improvement on the above property from a certified chartered engineer. Same was rejected as assessee did not produce the other relevant details such as commencement date, completion date, the bills of material etc. Before

us now the assessee has produced the relevant details and also the map of construction certified by certified by the municipal Corporation. The assessee deserves the deduction of cost of construction at its indexed value from the sale consideration offered by the assessee for working out of the capital gain. The only dispute is that assessee could not produce the relevant details, then what is the actual cost of construction incurred by the assessee. Even if the assessee fails to produce the relevant details of cost of construction by producing the bills of material, the learned assessing officer may determine the cost of construction from the Department valuer. But it is true that assessee must be granted deduction of such cost of construction for working out capital gain. Of course for incurring the cost of construction , the sources of funds are also required to be established by assessee. Before us the assessee has produced certain details, which were claimed by the assessee that same were not asked by the learned lower authorities. Therefore it is truly stated by the learned departmental representative that unless those are verified, the cost of construction cannot be determined.

12. In view of the above facts we restore the whole issue back to the file of the learned assessing officer with a direction to the assessee to produce all the relevant details that are available with him to show the cost of construction incurred as well as the commencement certificate and completion certificate of corporation along with the withdrawal from the bank account and also supported by the bills of material. The Id. AO may verify the same and decide the issue in accordance with law.

The Id. AO may also refer the matter to Departmental valuer, if he is of the opinion that to determine the correct cost of constructions , it is necessary. Thereafter, the computation of capital gain may be made a fresh.

13. In the result appeal of the assessee is allowed as indicated above for statistical purposes.

Pronounced in the open court on this 17th day of February, 2026.

Sd/-

(SOUNDARARAJAN K.)
JUDICIAL MEMBER

Sd/-

(PRASHANT MAHARISHI)
VICE PRESIDENT

Bangalore,
Dated, the 17th February 2026.

/Desai S Murthy /

Copy to:

1. Appellant 2. Respondent 3. Pr. CIT 4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.