IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE

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

ITA No. 1391/Bang/2025
Assessment Year : 2021-22

Shri Manjunatha Narayanaswamy Manchanayakanahalli, No. 46, Hanumanthanagara Bidadi Hobli, Manchanayakanahalli Ramanagar Bidadi, Karnataka – 562 109. **PAN: AKDPM3959P**	**Vs.**	The Deputy / Assistant Commissioner of Income Tax, Circle – 5(1)(1), Bengaluru.
APPELLANT		**RESPONDENT**

Assessee by	:	Shri Akshay .K, CA
Revenue by	:	Shri Subramanian, JCIT-DR

Date of Hearing	:	02-12-2025
Date of Pronouncement	:	26-02-2026

ORDER

PER SOUNDARARAJAN K., JUDICIAL MEMBER

This is an appeal filed by the assessee challenging the order of the NFAC, Delhi dated 03/06/2024 in respect of the A.Y. 2021-22 and raised the following grounds:

> *"1. Disallowance of Construction Cost while computing Capital Gains*
>
> *1.1. The learned CIT(A) and the learned AO have erred in law and on facts in disregarding the construction cost in its entirety while computing capital gains, despite having accepted the sale consideration as offered, which*

intrinsically factors in the existence of a fully constructed residential property. The Appellant asserts that the cost of the building cannot be wholly disregarded where the existence of the building is undisputed and where independent Valuation Reports are duly available on record.

1.2. The learned CIT(A) has failed to appreciate that, in the case of self-constructed properties, especially where construction was undertaken several years prior, contemporaneous primary records such as bills, invoices or vouchers may not be available or practically retrievable. In such circumstances, the Valuation Report issued by a Registered Valuer constitutes relevant, admissible, and germane evidence for determining the cost of construction and is legally sufficient to support the claim.

1.3. The learned CIT(A) has erred in passing the impugned order without properly appreciating and evaluating the evidence placed on record, specifically the independent Valuation Report submitted under Rule 46A, and has disregarded the same without assigning cogent or legally sustainable reasons, thereby violating the settled principles of natural justice and fair adjudication.

1.4. Without prejudice to the above grounds and in the alternative, it is respectfully prayed that in the event the construction cost as per the independent Valuation Report is not accepted in entirety, the construction cost ought to be allowed on a reasonable and fair estimation basis, keeping in view the undisputed existence of the constructed building and the totality of facts and circumstances.

The appellant craves leave to add, amend, alter, omit or substitute any of the grounds of appeal at any stage before the appeal is finally heard or adjudicated upon."

2. The brief facts of the case are that the assessee is an individual and filed his return of income on 22/03/2022. Subsequently, the case was selected for scrutiny and notices u/s. 143(2) and 142(1) were issued. The AO sought for the details about the claim of the exempt income as well as sought for the sources for the cash deposits made into their bank account. The AO also sought for the details about the capital gains declared in the return of income. The assessee had not furnished any details in respect of the claim of exempt income as well as the sources for the cash deposits.

Insofar as the capital gain computation, the assessee submitted some documents and claimed the cost of improvement but the assessee had not furnished any documentary evidences in support of the said claim and cost of improvement. Therefore, the AO had confirmed the additions. As against the said order, the assessee filed an appeal before the Ld.CIT(A).

3. At the time of hearing, the assessee also filed an application to admit the additional evidences in support of their case. In the said application, the assessee also furnished a valuation report given by the registered valuer in support of his claim that there was a cost of improvement. The Ld.CIT(A) forwarded the said additional documents to the AO and sought for the remand report from him since the said additional evidences are not placed before him. The Ld.AO also sent a remand report but not given any finding with regard to the said additional documents including the valuation report filed by the assessee. Therefore, the Ld.CIT(A) had considered the issue on the basis of the materials available before him and set aside the addition made under the claim of exempt income as well as the cash deposits. Insofar as the cost of improvement, the Ld.CIT(A) had not accepted the said report and confirmed the order of the AO.

4. As against the said order of the Ld.CIT(A), the assessee is in appeal before this Tribunal with a delay of 292 days.

5. In the delay condonation application, the assessee submitted that the AR met with a serious accident and got his leg fractured and therefore he was unable to perform his professional obligations and enclosed the copies of the relevant medical records. The assessee further submitted that the authorised representative again met with an accident in November, 2024 and a surgery was performed on his wrist and it caused a further delay in filing the appeal before this Tribunal and prayed to condone the said delay. We have considered the reasons stated in the delay condonation application and also the medical records filed in support of the said reasons and we are satisfied that the assessee was prevented with sufficient cause for not filing

the appeal in time and therefore we have condoned the said delay and proceeded to decide the appeal on merits.

6. At the time of hearing, the Ld.AR submitted that the valuation report could not be brushed aside when admittedly there is some evidence to show that the assessee had constructed the property on the vacant land. The Ld.AR further submitted that when the AO had not given any adverse finding about the valuation report, the Ld.CIT(A) could not reject the said report without having any direct evidence. The Ld.AR further submitted that the AO ought to have suomoto granted the cost of construction when the construction of the building is not under dispute. The Ld.AR filed two paper books including the deeds as well as the case laws and prayed that the appeal may be allowed.

7. The Ld.DR submitted that the finding of the Ld.CIT(A) insofar as about the valuation report is in order since the assessee had not produced any records to show that the expenses were incurred for the said construction. The Ld.DR further submitted that the assessee had neither produced the documents before the AO nor before the Ld.CIT(A) and therefore the denial of the cost of improvement is in order.

8. We have heard the arguments of both sides and perused the materials available on record.

9. In the first paper book dated 09/09/2025, the assessee had enclosed the registered sale deed in respect of the property sold by him in the vernacular language. Similarly, the copy of the purchase deed of the plot in the vernacular language was also filed. Subsequently, in the paper book filed on 01/12/2025, the assessee submitted the translated copies of the said two deeds. From the perusal of the said deeds, we find that the assessee had purchased the vacant land on 05/03/2012 and thereafter on 08/01/2021 he sold the property comprising the ground and first floor. From the said deeds, we are able to find that the assessee had purchased the vacant land and thereafter constructed the building in the said vacant

land and sold the entire property as one to the buyer on 08/01/2021. The documents would shows that the assessee had constructed the building in the said vacant plot purchased by him and therefore necessarily, he has to incur expenses for the said construction. It is the case of the assessee that the construction was done by him and therefore the basic documents such as bills were not available with the assessee to show that the assessee had incurred a definite sum towards the construction of the property. In such circumstances only, the assessee had obtained a valuation report from the registered valuer and the registered valuer also by taking into the various rates approved by Government of India / CBDT, had arrived the cost of construction of the said building. It is not the case of the department that the assessee had not constructed the said building. That cannot be also since the deeds produced by the assessee would establishes the fact that the assessee had constructed a residential building comprising of ground and first floor and therefore he could have incurred expenses for the said construction. When that being the facts, the assessee had tried to produce some evidences to show that he incurred the construction cost, for which he relied on the report of the valuation officer. The Ld.CIT(A) also does not have any report from the AO when the valuation was sent to him for remand report. Therefore, it cannot be disputed that no expenses could have been incurred by the assessee when the fact of construction was established by him. The only dispute is with regard to the adoption of the value by the assessee is correct or not.

10. Admittedly, the assessee had not produced any documents to show that the assessee had incurred expenses for the said construction. The assessee had also not produced the valuation report when the other evidences are not available. Therefore, the valuation report given by the registered valuer has to be considered by the AO and if there are any deviations, it should be brought to the notice of the assessee and thereafter the cost of construction has to be arrived and the computation of capital gains would be made. In any event the cost of construction could not be denied in toto. We, therefore set aside the findings in respect of the

computation of capital gains by the Ld.CIT(A) and remit the same to the file of the AO for denovo consideration of this issue alone.

11. The AO is also directed to consider the valuation report and if necessary, the assistance of the departmental valuation officer may also be taken and thereafter the cost of construction can be arrived. We are giving liberty to both the parties to produce the evidence to prove or disprove the valuation report given by the registered valuer.

12. We, therefore, set aside the findings of the Ld.CIT(A) insofar as the capital gains are concerned and remit the issue to the file of the AO for fresh consideration.

13. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 26th February, 2026.

Sd/-	Sd/-
(PRASHANT MAHARISHI)	(SOUNDARARAJAN K.)
Vice – President	Judicial Member

Bangalore,
Dated, the 26th February, 2026.
/MS /

Copy to:

1. Appellant	2. Respondent
3. CIT	4. DR, ITAT, Bangalore
5. Guard file	6. CIT(A)

By order

Assistant Registrar,
ITAT, Bangalore