

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH, 'C' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.613/PUN/2022

निर्धारण वर्ष / Assessment Year : 2019-20

Yashpalsingh Surindersingh Matharu, C/o. Harjeet Singh Matharu, C-603, Gold Coast, Ivory Estates, Next to Hotel Green Park, Baner Road, Pune 411 021 Maharashtra PAN : AUPPM7483A	Vs.	ITO (International Taxation), Ward-3, Pune
Appellant		Respondent

Assessee by

Shri Sanket Joshi

Revenue by

Shri Shivraj Morey, CIT-DR

Date of hearing

11-04-2023

Date of pronouncement

11-04-2023

आदेश / ORDER

PER R.S. SYAL, VP :

This appeal by the assessee is directed against the final assessment order dated 27-04-2022 passed by the Assessing Officer (AO) u/s.143(3) read with section 144C(13) of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the assessment year 2019-20.

2. The appeal is time barred by 37 days. The assessee has filed an affidavit explaining the reasons for the delay. We are satisfied

with the reasons so stated. The delay is, therefore, condoned and the appeal is admitted for disposal on merits.

3. The assessee is aggrieved by the addition of Rs.9,17,560/- towards indexed cost of improvement. Succinctly, the facts of the case are that, the assessee is a non-resident individual who filed his return declaring total income at Rs.13,49,630/-. During the course of assessment proceedings, the AO observed that the assessee had computed income under the head 'Capital gains' on transfer of certain property and claimed exemption towards long term capital gain. In such computation of capital gain, the assessee had claimed deduction of indexed cost of improvement at Rs.9,17,560/- towards development work carried out. On being called upon to substantiate and furnish necessary copies of bank account and invoices through which said development work was carried out, the assessee submitted confirmation from Pallod & Associates, the developer, affirming that the development cost of Rs.2,40,000/- and Rs.3,00,000/- was incurred on 22-09-1998. The AO did not grant such deduction in the draft order because of the failure of the assessee to furnish any evidence as required by him. No relief was allowed by the Dispute Resolution Panel. The AO made the addition of Rs.9,17,560/- in the final assessment order. Aggrieved thereby, the assessee has come up in appeal before the Tribunal.

4. The first issue raised by the assessee is against non-granting of deduction towards indexed cost of improvement. In this regard, it is observed that the assessee transferred the property in question during the year, which was purchased on 22-09-1998. A copy of the purchase deed has been placed at page 24 of the paper book. The assessee claimed that he incurred development cost on such property, whose indexed value was Rs.9,17,560/-. In support of such claim, the assessee furnished estimate given by the developer, who thereafter raised bills, copies of which have been placed at pages 18 and 19 of the paper book. It can be seen that the estimate given by the developer, namely, Pallod & Associates on 20-07-98 was towards Barbed wire fencing; Ornamental entrance door; Construction of shed; and Water reservoir. Thereafter, there is a so called Bill dated 22-09-98 given by the developer towards the above four things. At this stage, it is relevant to mention that the property in question was purchased by the assessee on 22-09-98 through registered sale deed. In such a scenario, we fail to appreciate as to how the assessee could obtain an estimate of development work to be carried out at the property and such development work also got completed on or before the date of purchase by the assessee. Even if it is presumed that what the assessee is stating is correct, we find from the sale deed dated 22-09-98 that there is no reference to such

shed or ornamental entrance door etc. The sale deed refers only to some Kutcha construction, which fact is discernible from page 48 of the paper book, that is a part of the sale deed to this effect. This shows that, firstly, the assessee did not adduce any evidence of having done any development work on the property by furnishing the direct invoices for the development work. Secondly, even if it is presumed that the development work was actually carried out as claimed through the estimate/Bill of the developer, it is hard to accept that the development of the property was got done by the assessee before the date of its purchase itself. Thirdly, even if we go with the hypothesis that the assessee actually got the development work, then such development work should have been reflected in the description of the property in the sale deed, which is absent. In view of the foregoing reasons, we are satisfied that the AO was justified in not accepting the claim of indexed cost of development by the assessee. This ground is not allowed.

5. An alternate ground has been raised for increase in the proportionate deduction u/s.54F because of the resultant increase in the amount of capital gain for the disallowance of the claim for indexed cost of improvement. The AO is directed to verify such claim and allow the same as per law. Needless to say, the assessee will be allowed an opportunity of hearing.

6. In the result, the appeal is partly allowed for statistical purposes.

Order pronounced in the Open Court on 11<sup>th</sup> April, 2023.

Sd/-  
(PARTHA SARATHI CHAUDHURY)  
JUDICIAL MEMBER

Sd/-  
(R.S.SYAL)  
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 11<sup>th</sup> April, 2023  
सतीश

**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The respondent
3. The Pr.CIT concerned
4. DR, ITAT, 'C' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	11-04-2023	Sr.PS
2.	Draft placed before author	11-04-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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