



IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH, 'E': NEW DELHI

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT  
AND  
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

ITA No.464/Del/2019  
[Assessment Year: 2012-13]

Meena Gupta, C/o-M/s RRA TAXINDIA, D-28, South Extension, Part-1 New Delhi-110049	Vs	ACIT, Central Circle-14, New Delhi
<b>PAN-AAGPG6925J</b>		
Assessee		Revenue

Assessee by	Sh. Somil Agarwal, Adv. & Sh. Deepesh Garg, Adv.
Revenue by	Ms. Baljeet Kaur, CIT-DR

<b>Date of Hearing</b>	<b>14.11.2024</b>
<b>Date of Pronouncement</b>	<b>21.11.2024</b>

**ORDER**

**PER BRAJESH KUMAR SINGH, AM,**

This appeal filed by the assessee is directed against the order dated 28.10.2018 of the Ld. Commissioner of Income Tax (Appeals)-XXVI, New Delhi, relating to Assessment Year 2012-13.

2. The grounds of appeal raised by the assessee are as under:-

*“1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not quashing the impugned assessment order passed by Ld. AO u/s 153C/144 without assuming jurisdiction as per law and without recording requisite satisfaction as per law and without complying with the other mandatory conditions as envisaged under the Act.*

*2. That in any case and in any view of the matter, action of Ld. CIT(A) in not quashing the impugned assessment order passed by Ld. AO u/s 153C/144, is bad in law and against*

*the facts and circumstances of the case, more so when no incriminating material was found as a result of search.*

3. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in making disallowance of deduction of Rs.9,640/- claimed by assessee u/s 80C, more so when no incriminating material has been found as a result of search and impugned disallowance has been made by recording incorrect facts and findings and without providing the entire adverse material on record and without observing the principles of natural justice.*

4. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not deleting the entire addition made by Ld. AO amounting to Rs.71,86,571/-, more so when no incriminating material has been found as a result of search and impugned addition has been made by recording incorrect facts and findings and without providing the entire adverse material on record and without observing the principles of natural justice.*

5. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not allowing the entire cost of construction renovation expenses of Rs.48,48,524/- as claimed by assessee, more so when no incriminating material has been found as a result of search and impugned disallowance has been made by recording incorrect facts and findings and without providing the entire adverse material on record and without observing the principles of natural justice.*

6. *That in any case and in any view of the matter, action of Ld. CIT(A) in not allowing the entire cost of construction/renovation expenses of Rs.48,48,524/- as claimed by assessee, is bad in law and against the facts and circumstances of the case.*

7. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not appreciating/considering the evidences filed by assessee.*

8. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not quashing the impugned assessment order passed Ld. AO and that too without obtaining the valid approval u/s 153D as per law.*

9. *That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in not reversing the action of Ld. AO in charging the interest u/s 234A, 234B and 234C of the Income Tax Act, 1961.”*

3. Brief facts of the case:-The assessee is an individual and filed her return of income at Rs.23,74,730/-. The assessment was completed under section 153C r.w.s 144 of the Act at a total income of Rs.1,45,44,630/-. A search and seizure action was carried out on the Rama and Param Group and other related cases on 28.02.2014 at various residential and business premises. Certain incriminating documents relating to the assessee were found during the said search which pertain to the impugned assessment year. Based on these incriminating documents, assessment u/s 153C r.w.s. 144 of the Income Tax Act, 1961 (the Act) was completed at an income of Rs. 1,45,44,630/- making four additions, which reads as under:-

<b>Particulars</b>	<b>Amount in INR</b>
Addition u/s 80C and 80D	9,640
Addition u/s 69A	71,86,571
Addition against entire cost of construction/renovation expenses	48,48,524
Addition against agriculture income	89,529
<b>Total</b>	<b>1,45,44,634</b>

4. Against the above order, the assessee filed appeal before the Ld. CIT(A). The Ld CIT(A) after considering the detailed written submissions, remand report and the rejoinder, allowed part relief sustaining only two additions, which reads as under:-

(1) Rs. 48,84,524/- on account of construction/renovation expenses claimed by the assessee while calculating capital gain.

(ii) Rs. 9,640/- on account of deduction claimed u/s 80C of the Act.

5. Aggrieved by the said sustenance, the assessee is in appeal in appeal before us.

6. Ground no.5 & 6 of the appeal is against the disallowance of Rs.48,84,524/- towards the cost of indexation claimed by the assessee.

7. During the year, the assessee had sold a property at 27/29, Gali No.9, Biswas Nagar, Sahadra, Delhi-32 at a sale consideration of Rs.71,50,000/- and offered capital gains amounting to Rs.20,84,508/- after claiming indexation of Rs.50,65,492/-. The assessee claimed that the above property was purchased and constructed during the year 1993-94 to 2010-2011 and claimed to have spent an amount of Rs.31,98,704/- on its construction. As per the computation of income, the assessee claimed indexation amounting to Rs.50,65,492/-. The above indexation also included the cost of land amounting to Rs.1,80,968/- which was allowed by the AO. In respect of the balance amount of Rs.48,84,524/- (Rs.50,65,492-1,80,968/-) the same was disallowed by the AO on the ground that no documentary evidence was filed in support of the claim of expenses amounting to Rs.31,98,704/- incurred on construction/renovation expenses in respect of the property on which indexation amounting to Rs.48,84,524/- was claimed. The relevant discussion by the AO in para no.10 on page-18 of the assessment order is as under:-

*“10. It is worth to mention that the assessee had sold the immovable properties for total amount of Rs. 71,50,000/- and had not filed her original return of income and had not paid the taxes to the revenue. Now in pursuance to notice us 153C of the Income Tax, the assessee has furnished the return of income on 22.11.2016 declaring the capital gain of Rs.20,84,508/- lac against a sale consideration of Rs.71,50,000/-. The assessee has claimed the deduction on*

*account of construction/renovation expenses as shown to have incurred during different years. The assessee was asked to furnish the documentary evidence justifying the actual incurrance of the renovation/construction expenses; however the assessee has not furnished any documents in support of her claim on account of such expenses. Thus the construction and renovation expenses amounting to Rs.48,84,524/- are hereby disallowed and added to the income of the assessee in absence of the explanation or any documentary evidence.”*

7.1. The Ld. CIT(A) also agreed with the AO on the ground that the expenses claimed were frivolous and unverifiable on account of bogus bills submitted by the assessee. The relevant discussion of the ld. CIT(A) in para no.ivb on page no.12 of his order is reproduced as under:-

*“iv b. Next issue is about the allowability of certain claims regarding costs of additions/alterations to the property. The AO has examined this issue and concluded that the expenses by the appellant are not verifiable nor corroborated by documents filed in this regard. The AO has seen and recommended allowability of some expenses amount Rs.3,94,860/- during period 2009-10 paid to the Municipal and other authorities. I have considered the facts of the case and it is seen that the appellant produced certain self serving evidences trying to explain the expenses claimed but these could not be properly verified. Therefore, on the facts of the case out of total expenses claimed amounting to 31,98,704/- only the expenses of 3,94,860/- are allowed to be claimed for indexed expenses for computing LTCG by appellant. Rest of the expense-claim is disallowed being frivolous and unverifiable on account of bogus bills submitted by the appellant. The AO shall re-compute the long term capital gains accordingly, having acceded to the factum of sale transaction of properties by the appellant.”*

7.2. During the hearing before us, the Ld. AR submitted that the copy of the invoices in respect of expenses amounting to Rs.28,03,844/- (Rs.31,98,704 – Rs.3,94,860/-) placed before the AO (page no.6 to 86 of the paper book). The Ld. AR fairly submitted that both the AO as well as the Ld. CIT(A) rejected these evidences on the ground that the same were not reliable. The Ld. AR submitted that being an old matter an estimation

of the cost incurred for its improvement/renovation may kindly be considered, since the property was in existence and was sold during the year on which the capital gains amounting to Rs.20,84,508/- was offered for taxation. He further submitted that the AO in his remand report dated 17.07.2018 had agreed that on perusal of the expenses of Rs.31,98,704/- claimed an amount of Rs.3,94,860/- for the FY 2009-10 was for Stamp Duty, MCD Map fee and MCD Development charges and this amount was allowable as these expenditures were paid to the Government department, which was also allowed by the Ld. CIT(A).

8. The Ld. DR supported the orders of the authorities below.

9. We have heard both the parties and perused the material available on record. We have carefully considered the claim of the assessee amounting to Rs.48,84,524/- towards the indexed cost of construction in respect of the building sold by the assessee. It is undisputed fact that there was a building, which was sold during the year on which capital gains has been offered by the assessee. Therefore, the denial of the entire expenditure incurred towards as cost of construction by the AO cannot be held to be justified even if the assessee did not submit satisfactory bills/vouchers in support of her claim towards the cost of construction. It is also a fact that the AO in his remand report stated that an amount of Rs.3,94,860/- for the FY 2009-10 was paid for Stamp Duty, MCD Map fee and MCD Development charges and this amount was allowable as these expenditures were paid to the Government department. This further reinforces the fact that the building that was sold was constructed on which expenses were definitely incurred. Therefore, considering the facts

in entirety, we hereby direct the AO to allow 50% of the indexation claimed i.e. Rs.24,42,262/-. We also clarify that there will be no further allowance of indexation of Rs.3,94,860/- as allowed by the ld. CIT(A) as the same in our estimation is also included in the 50% of the indexation amounting to Rs.24,42,262/- allowed by us. The balance disallowance of Rs.24,42,262/- claimed towards indexation by the assessee by the AO is confirmed. Ground no.5 & 6 of the appeal are partly allowed.

10. Ground no.3 of the appeal is against the action of the AO in making a disallowance of deduction of Rs.9,640/- claimed by the assessee u/s 80C towards payment of LIC premium. The above claim was stated to be allowable by the AO in his remand report dated 17.07.2018, the relevant extract of which are reproduced as under:-

*“1. Addition amounting to Rs.9,640/- on account of disallowance of deduction claimed u/s 80C of the Income Tax Act, 1961.*

*The assessee has claimed deduction of Rs. 9,640/- u/s 80C against payment of Life insurance premium. The submission made by the assessee as additional evidence has been considered and examined by the undersigned and found correct and acceptable for the amount of Rs. 9,640/-.”*

10.1. Considering the above facts the addition of Rs.9,640/- is deleted. Ground no.3 of the appeal is allowed.

11. Ground Nos.1, 2, 4, 7 and 8 of the appeal are not pressed and the same are dismissed.

12. Ground No.9 of the appeal is against charging of interest u/s 234A, 234B and 234C of the Act. Charging of interest is consequential in nature

and the AO directed to charge interest as per law. This ground of the assessee is partly allowed.

13. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on 21<sup>st</sup> November, 2024.

**Sd/-**  
**[MAHAVIR SINGH]**  
**VICE PRESIDENT**

**Sd/-**  
**[BRAJESH KUMAR SINGH]**  
**ACCOUNTANT MEMBER**

**Dated** 21.11.2024.

*Shekhar*

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi,