

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

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND
SHRI B. R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.1162/Bang/2019
Assessment Year : 2013-14

Shri. Pradeep Varma, No.80/1, 1 st Floor, West Park Road, 18 th Cross, Malleshwaram, Bengaluru – 560 055. PAN : ADMPP 4606 N	Vs.	The Assistant Commission of Income Tax, Circle – 2(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. R. E. Balasubramanyam, CA
Revenue by	:	Shri. Kannan Narayanan, JCIT

Date of hearing	:	23.06.2021
Date of Pronouncement	:	30.06.2021

ORDER

Per N. V. Vasudevan, Vice President

This is an appeal by the assessee against the order dated 25.03.2019 of CIT(A)-2, Bengaluru, relating to Assessment Year 2013-14.

2. The assessee is an individual. The assessee sold a property at Indiranagar, Bengaluru, for a sum of Rs.3.60 Crores. The Assessee claimed expenses in connection with transfer in the form of brokerage at a sum of Rs.8,08,560/-. The assessee also claimed deduction u/s.54 of the Act on the ground that the assessee invested in purchase of new residential property at Gurgaon. Since the assessee did not file any evidence with regard to purchase of new property, the AO did not allow the claim of the assessee for deduction under section 54 of the

Income Tax Act, 1961 (hereinafter called 'the Act'). The AO added a sum of Rs.3.60 Crores and also brokerage of Rs.8,08,560/- as capital gain. It is relevant to pointed out that assessment was concluded by the AO under section 144 of the Act (best judgment assessment), since the assessee did not participate in the proceedings.

3. Before CIT(A), the assessee claimed cost of acquisition as a deduction in computing long term capital gain. The CIT(A) called for a remand report from the AO. In the Assessment report, the AO submitted (i) with regard to deduction u/s.54 of the Act, no evidence was claimed and hence the same cannot be allowed; (ii) with regard to deduction on account of brokerage paid, the Assessee filed evidence in the form of receipt of the broker and the AO accepted the same and was of the view that the said deduction should be allowed. (iii) With regard to cost of acquisition of the property, the AO submitted that the assessee purchased the scheduled property via sale deed dated 10/07/2002 for Rs. 33,60,000/ but in the computation for the AY 2013-14 he had claimed cost of acquisition as follow and indexed it accordingly.

Cost of acquisition:	Actual (in Rs.)
During FY 2002-03	38,47,200
During FY 2003-04	968,287/-
During FY 2004-05	22,70,450
During FY 2005-06	35,000/-

As the cost of acquisition as per sale deed dated 10/07/2002 is Rs. 33,60,000/- but the claim of cost of acquisition differently in computation the Assessee was asked to furnish evidence in support of the claim. The Assessee did not file any evidence.

4. The CIT(A) in para 5.6 of his order, confirmed the order of the AO with the following observations:

“5.6 Based on the remand report of the AO and submissions from the appellant during remand proceedings, Ground nos 2 & 3 pertaining to computation of capital gains / loss have been withdrawn by the appellant during the course of appellate proceedings and therefore treated as dismissed.”

5. Aggrieved by the order of the CIT(A), the assessee has filed the appeal before the Tribunal. We have heard the rival submissions. From the perusal of the remand report of the AO before CIT(A), it is clear that the assessee did not file the evidence to claim deduction under section 54 of the Act. The claim of the assessee for allowing deduction on account of cost of acquisition and cost of improvement ought to have been adjudicated by the CIT(A). The assessee has filed before us additional evidence with regard to cost of improvement along with valuation report. He has also filed copy of the receipt from the broker for payment of brokerage. We are of the view that since the computation of long-term capital gain has to be made in accordance with provisions of section 48 of the Act and since the evidence in this regard has now been placed before the Tribunal, we deem it fit and appropriate to admit the additional evidence and remand the issue with regard to correct computation of LTCG to the AO for fresh consideration. The AO will afford opportunity of being heard to the assessee and thereafter decide the issue in accordance with law. The appeal of the assessee is accordingly treated as allowed for statistical purposes.

6. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-
(B. R. BASKARAN)
Accountant Member

Sd/-
(N. V. VASUDEVAN)
Vice President

Bangalore.

Dated: 30th June, 2021.

/NS/*

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| 1. Appellants | 2. Respondent |
| 3. CIT | 4. CIT(A) |
| 5. DR | 6. Guard file |

By order

Assistant Registrar,
ITAT, Bangalore.