

Cost of improvement disallowed as assessee failed to establish that renovation was carried out in flat

Summary – The Patna ITAT in a recent case of Yashovardhan Sinha, (the Assessee) held that Assessee's claim towards cost of improvement while computing capital gain on sale of a flat was rejected where assessee failed to establish his claim of renovation being carried out in said flat with any cogent or reliable evidence

Where construction of new residential flat was not complete by end of three years from transfer, assessee would not be entitled to exemption under section 54

Facts

- During the relevant assessment year the assessee sold a flat resulting in certain capital gain. While computing capital gain the assessee claimed deduction towards cost of improvement. The claim was rejected on ground of lack of substantiation.
- On appeal:

Held

- As regards the cost of improvement, the revenue's objection is based on a clear finding of fact, *i.e.*, of the assessee being unable to establish his claim of renovation being carried out with any cogent or reliable evidence. Toward this, principal evidence led by the assessee is the undated certificate from the said 'Munna Furniture Makers'. It, however, does not specify the nature of the work carried out, nor does the assessee, so that the same remains unspecified. Even if, therefore, payments were made to the said concern, there is nothing to show that the same were actually in the nature of renovation work, so as to qualify for being considered as toward improvement. If, for example, some furniture was got fabricated, the same may not qualify as an improvement to the residential house, for which it shall have to be shown that the said furniture forms an integral part of the house/structure. The letter head, on which the certificate stands issued, describes the said concern as 'interior decorators', so that it may be that some interior designing work was carried out by the said firm, which may again not necessarily be in the nature of an addition or improvement to the existing house. Any addition and/or alteration to the house, enhancing its functional utility, so as to qualify as an improvement, would also require being notified to the housing society or even approval of the relevant authorities. In fact, apart from non-specification of the work, so that the very basis of the assessee's claim remains unknown, the certificate speaks of the renovation work having been carried out during the years 1997-98 and 2001-02, implying the relevant financial years. The additional loan of Rs. 2 lakhs from the bank was sanctioned on 6-9-2001, which is claimed to be the source of the investment, with even the assessee claiming the improvement to have been

carried out in the year 2001, contradicting the said certificate. For the reasons aforesated, assessee had been unable to establish his claim of having undertaken improvement of its house in 2001.