

Disallowance of indexed cost of improvement was justified if assessee failed to prove quantum of exp. incurred

Summary – The Jaipur ITAT in a recent case of Jagdish Wadhvani., (the Assessee) held that where assessee, while computing long-term capital gain on sale of an immovable property, claimed deduction of indexed cost of improvement incurred by it in said property, since assessee had not submitted any documentary evidence to prove quantum of expenditure incurred on improvement, Assessing Officer was justified in disallowing claim made by assessee

Where assessee had sold an immovable property and claimed deduction under section 54 on account of an advance given to a developer for booking of a flat in a residential project to be developed, since assessee had booked flat prior to sale of existing immovable property and, further, neither on date of payment of advance nor till expiry of time period prescribed under section 54 alleged new flat was in existence, exemption under section 54 could not be granted

Facts

- The assessee filed his return of income declaring income from long term capital gain and also claimed deduction under section 54. While computing the long-term capital gain, the assessee had deducted indexed cost of improvement construction of certain amount incurred by it in respect of property sold by it.
- The Assessing Officer asked the assessee to furnish the documentary evidence in support of the cost of improvement/construction in the property in question. Since the assessee did not furnish any supporting evidence, accordingly, the Assessing Officer disallowed the claim of indexed cost of improvement/construction.
- On appeal, the Commissioner (Appeals) also confirmed the disallowance made by the Assessing Officer.
- On second appeal:
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Held

- The Assessing Officer has issued show cause notice asking the assessee to furnish the documentary evidence to prove the quantum of expenditure on improvement. Since the assessee did not furnish any evidence, accordingly, the Assessing Officer has denied the claim. Though the assessee challenged the said action of the Assessing Officer, however, even during the proceedings before the Commissioner (Appeals), the assessee did not file any documentary evidence and, consequently, the addition made by the Assessing Officer was upheld by the Commissioner (Appeals). Even now, the assessee has neither produced any supporting evidence nor claimed that the assessee is having

any supporting evidence. Accordingly, in view of the facts and circumstances of the case when the assessee has not produced any documentary evidence in support of the claim, there is no any error or illegality in the orders of the authorities below, *qua* this issue.