

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "G" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

ITA.No.1186/Del./2017
Assessment Year 2008-2009

Shri Suresh Bansal, New Delhi. PAN AKYPB5000H C/o. M/s. RRA Taxindia, D-28, South Extension Part-I, New Delhi.	vs.	The DCIT, Central Circle – II, Faridabad.
(Appellant)		(Respondent)

For Assessee :	Shri Somil Agarwal, Advocate
For Revenue :	Shri H.K. Chaudhary, CIT- DR

Date of Hearing :	02.09.2020
Date of Pronouncement :	02.09.2020

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by assessee has been directed against the Order of the Ld. CIT(A), Karnal, Dated 19.01.2017, for the A.Y. 2008-2009, challenging the addition of Rs.1,19,682/- on account of long term capital gains on sale of property.

2. We have heard the Learned Representative of both the parties through video conferencing and perused the material available on record.

3. The facts of the case are that a search was conducted in the case of assessee under section 132(1)(A) of the I.T. Act, 1961, at the residential as well as business premises of M/s. SRS Group on 09.05.2012. During the course of search operation, documents regarding sale/purchase of different properties were found. The assessee was required to file the details. The assessee filed calculation of capital gain for the property situated in Ward-9, Near Ambedkar Chowk, Mohana Road, Ballabgarh showing loss of Rs.2,025/- on the said transaction. The said property was purchased on 27.01.2003 for a total value of Rs.2,55,000/- of which index cost comes to Rs.4,47,818/-. The assessee has not given any documentary evidence with regard to cost of improvement made in the property. The A.O. accordingly calculated the capital gain at Rs.1,19,682/- and made the addition accordingly. The Ld. CIT(A) dismissed the appeal of assessee.

4. After considering the rival submissions, we are of the view that addition is not called for in the matter. Learned Counsel for the Assessee referred to the reply filed before Ld. CIT(A) [pages 86-89 of PB] in which it was mentioned that the addition cannot be made in the assessment year under appeal i.e., 2008-2009 because the property in question was sold on 11.04.2011. Therefore, capital gain could be assessed only in A.Y. 2012-2013. The assessee also enclosed copy of the sale deed before the Ld. CIT(A), copy of which is filed at pages 68 to 71 of the PB. The said sale deed shows the date of sale as 11.04.2011. It would clearly show that property in question was sold in A.Y. 2012-2013, therefore, the same could not be subjected to capital gain in assessment year under appeal i.e., 2008-2009. In this view of the matter, we set aside the Orders of the authorities below and delete the addition.

5. In the result, appeal of the Assessee allowed.

Order pronounced in the open Court.

Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 02nd September, 2020

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'G' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.