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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4068/2025 and CM APPLs. 18912-13/2025

ATUL JAIN .....Petitioner

Through: Mr Manibhadra Jain with Mr Sachin Jain and Mr Sushant Singhal, Advocates.

versus

NATIONAL FACELESS ASSESSMENT CENTRE DELHI .....Respondent

Through: Mr Abhishek Maratha, SSC with Mr Apoorv Agarwal and Mr Parth Samwal, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

O R D E R

% **01.04.2025**

1. Issue notice. The learned counsel appearing for the Revenue accepts notice.

2. The petitioner [**Assessee**] has filed the present petition impugning an assessment order dated 08.03.2025 [**impugned order**] passed under Section 143(3) read with Section 144B of the Income Tax Act, 1961 [**the Act**] as well as the accompanying notice dated 08.03.2025 issued under Section 156 of the Act. In terms of the impugned order, an addition has been made to the Assessee's returned income on account of disallowance of the petitioner's claim for a benefit under Section 54 of the Act.

3. It is the petitioner's case that he had sold a property, which comprised

of a plot of land and a three-storey building [**subject property**] at a consideration of ₹12,00,00,000/-. The Assessee had claimed that the cost of land, which was purchased by his mother in 2001-02, was ₹1,11,07,044/-. He also claimed that his mother had raised a construction on the said plot of land in 2012-13, which he had valued at ₹2,04,18,964/-. Taking the indexed costs of land and the construction, the Assessee had claimed that he was entitled to deduction of ₹3,67,64,315/- and ₹3,37,93,385/- and computed the capital gain chargeable to tax at ₹4,94,42,300/-. The petitioner had invested the said amount in a house property [**new asset**], and therefore, claimed that the capital gains chargeable to tax were NIL. A tabular statement setting out the Assessee's claim is set out below:

> **"3.2 Synopsis of all submissions of the assessee relating to issue and indicating the dates of submission:**
>
> The assessee has made submission on 07.01.2025, 15.01.2025, 07.02.2025 & 04.03.2025 with regard to issue involved as below:
>
> Vide submission dated: 07.01.2025, the assessee has furnished written submission and details of computation of capital gain of residential property which is sold during the year under consideration which is as under:

Sale consideration of property	Rs.12,00,00,000
Cost of land Rs. 1,11,07,044/- (2001-02)	Rs.3,67,64,315
Cost of construction Rs. 2,04,18,964/-(2012-13)	Rs.3,37,93,385

Capital Gain	Rs. 4,94,42,300
Re-invested u/s 54 of the Act	Rs. 4,94,42,300
Capital gain income	NIL

In response to the notice issued, the assessee has filed copy of written submission, copy of bank account statement, relevant sale deeds, copy of valuation report, computation of income and other relevant documents which are carefully perused and taken on record."

4. There is no dispute as to the sale consideration or the cost of land. However, the Assessee could not establish the value of the cost of construction by production of any bills or other documents. It is the Assessee's case that he had inherited the property from his mother and did not have any bills or documents to substantiate the cost of construction. Accordingly, the Assessee had furnished an independent valuer's report estimating the value of construction at ₹2,04,18,964/- at the material time. The Assessee is aggrieved as the said valuation report had been disregarded. Further, the Assessing Officer [**AO**] has also not undertaken any exercise to estimate the costs of construction and has proceeded to assume them to be NIL. *Prima facie,* the cost of building cannot be disregarded in entirety.

5. Having stated the above, we also note that the Assessee has a remedy of statutory appeal before the Commissioner of Income Tax (Appeals). We, accordingly, refrain from entertaining the present petition leaving it open for the Assessee to avail his statutory remedy. However, in the peculiar facts

and circumstances of the case, we direct that in the event the Assessee prefers an appeal within a period of four weeks from date, the same would be considered by the Appellate Authority on merits. However, in the meanwhile, the recovery of the demand, till the disposal of the appeal, is stayed.

6. Pending applications shall also stand disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

APRIL 01, 2025/tr

Click here to check corrigendum, if any