

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"SMC" BENCH, AHMEDABAD**

**[ Before Shri Pramod Kumar, Vice President ]**

ITA No. 2910/Ahd/2015  
Assessment Year : 2012-13

**Jaymin Uttamlal Solanki**  
A/3, Shanti Park Society,  
Opp. Anandvan Complex,  
Subhanpura, Vadodara  
[PAN: AEPPS 1347 M]

.....Appellant

**Vs.**

**Income Tax Officer**  
Ward 4(1)(1), Baroda

.....Respondent

**Appearances by:**

**Tushar P Hemani** for the appellant  
**Jayant Jhaveri** for the respondent

Date of concluding the hearing : 28.02.2019  
Date of pronouncing the order : 24.05.2019

**O R D E R**

1. This appeal challenges correctness of learned CIT(A)'s order dated 24.02.2015, in the matter of assessment under section 143(3) r.w.s. 147 of the Income-tax Act, 1961, for the assessment year 2012-13.

2. Grievances of the assessee, as pressed before us, is against learned CIT(A)'s upholding the disallowance of deduction of Rs.13,42,259/- under section 54 of the Act.

3. One of the issues that learned counsel for the assessee has raised before the Tribunal is that the year before us is the year in which transaction has taken place whereas the addition could at best be made in the year in which three years from the date of transaction in question are completed. He also fairly admits that this issue was not raised before any of the authorities below.

4. Having heard the rival contentions and having perused the material on record, I deem it fit and proper to admit this legal plea but, as it has not been examined by the authorities below, remit the matter to the file of the Assessing Officer for adjudication *de novo* by way of a speaking order. As I am remitting the matter to the

file of the Assessing Officer for fresh adjudication on the above plea, all other issues are left open too. Let the matter be examined, on merits – if necessary, afresh. Ordered, accordingly.

5. In the result, appeal is allowed for statistical purposes. Pronounced in the open court today on the 24<sup>th</sup> May, 2019.

Sd/-

**Pramod Kumar**  
**(Vice President)**

**Ahmedabad, the 24<sup>th</sup> day of May, 2019**

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Copies to: (1) The appellant (2) The respondent  
(3) Commissioner (4) CIT(A)  
(5) Departmental Representative (6) Guard File

By order

TRUE COPY

Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad