

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI 'D' BENCH, NEW DELHI**

**BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

ITA No. 6190/DEL/2016
[Assessment Year: 2013-14]

AJAY KHANNA,
A-9, RING ROAD,
NARAINA VIHAR,
NEW DELHI - 110 028
(PAN: AAAPK1321Q)
[Appellant]

VS. ACIT, CENTRAL CIRCLE-26,
NEW DELHI

[RESPONDENT]

Assessee by : Sh. Arvind Kumar, Adv.
Revenue by : Sh. Rajat Kumar Kureel, Sr. DR.

ORDER

PER H.S. SIDHU, JM

This appeal is filed by the assessee against the order of the Ld. Commissioner of Income Tax [Appeals]-29, New Delhi dated 30.09.2016 pertaining to assessment year 2013-14 on the following grounds:-

1. That in the facts and circumstances of the case the Ld. CIT(A) has erred in law in disallowing the claim of deduction u/s. 54 of the Income Tax Act, 1961 in respect of investment made in second house property by the appellant, on the ground that deduction under section 54 is allowable with respect to investment made only in one residential property.

2. That in the facts and circumstances of the case the Ld. CIT(A) has erred in law in not appreciating the fact that the amendment brought u/s. 54 of the Income Tax Act, 1961 by Finance (No. 2) Act, 2014, w.e.f. 01.04.2015 is prospective in nature and hence the disallowance of deduction in investment made by the appellant in second house property is bad in law.

2. At the time hearing, Ld. Counsel for the assessee stated that the issue regarding the claim of deduction u/s. 54 of the I.T. Act, 1961 in respect of investment made in the second house property by the assessee has already been adjudicated and decided in favour of the assessee by the various Hon'ble Courts and Tribunal including the judgment of the Hon'ble Madras High Court dated 14.03.2019 reported in [2019] 105 taxmann.com 151 (Madras) in the case of Tilokchand & Sons vs. Income Tax Officer, Ward-II (4), Madurai. He also draw our attention towards para no. 20 of the aforesaid judgment by filing the copy of the said decision and stated that respectfully following the aforesaid judgment of the Hon'ble Madras High Court, the addition in dispute may be deleted by allowing the appeal of the assessee.

3. On the contrary, Ld. DR relied upon the order passed by the Ld. CIT(A).

4. We have heard both the parties and perused the orders of the revenue authorities especially the judgment dated 14.3.2019 of the Hon'ble Madras High Court reported in [2019] 105 taxmann.com 151 (Madras) in the case of Tilokchand & Sons vs. Income Tax Officer, Ward-II (4), Madurai wherein the Hon'ble Court has held that "*whether where assessee HUF sold its residential house and*

invested capital gain purchasing more than one residential houses within stipulated time limit, assessee would be entitled to benefit of exemption under section 54." For the sake of convenience, the relevant para no. 20 of the aforesaid judgment is reproduced as under:-

"20. We have discussed about the two decisions from the Karnataka High Court, which, in our opinion, dealt with similar controversy as is raised before us herein. The only difference which we find is that the purchase of the residential houses in the present case is at different address in the same city of Madurai. In D. Ananda Basappa case stated (supra), two flats in question were admittedly adjacent to each other and which were joined to become one residential house. In the case of Khoobchand M Makhija (supra), two door nos are given viz., 623 and 729, but the complete addresses and even the name of the city is not clear in the facts narrated in the said Judgment. But in our considered opinion, the difference of location of the newly purchased residential house(s) will not alter the position for interpretation of the word 'a residential house' to the effect that it may include more than one or plural residential houses, as held by the Karnataka High Court, with which we respectfully agree. The location of the newly purchased houses by the same assessee viz., HUF out of sale consideration received on the sale of original capital Asset or a residential house in the

given circumstances of availability of such residential houses as per the requirement of the HUF will not alter the position of interpretation.”

4.1 We have gone through the judgment passed by the Hon'ble Madras High Court in the case of Tilokchand & Sons vs. Income Tax Officer, Ward-II (4), Madurai (Supra), especially the para no. 20 as reproduced above and we are of the view that the issue in dispute involved in the present appeal is exactly similar to the aforesaid issue already adjudicated by the Hon'ble High Court, hence, the issue in dispute is squarely covered by the aforesaid judgement. Therefore, respectfully following the aforesaid precedent, the addition involved in the present case is hereby deleted and appeal of the assessee is accordingly allowed.

5. In the result, the Appeal of the Assessee is allowed.

The order pronounced on 03.02.2020.

Sd/-

Sd/-

[PRASHANT MAHARISHI]
ACCOUNTANT MEMBER

[H.S. SIDHU]
JUDICIAL MEMBER

Dated:03-02-2020

SRB

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi