

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER  
AND  
SH. N.K CHOUDHRY, JUDICIAL MEMBER**

ITA No.830/Del/2020  
Assessment Year: 2009-10

<b>Jagpal Sharma C/o Parveen K. Agarwal &amp; Associates, D-17, Third, Floor, RDC Raj Nagar, Ghaziabad -201204 PAN No.DALPS8787N</b>	<b>Vs</b>	<b>ITO Ward- 1 (3) Ghaziabad</b>
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Appellant by	None
Respondent by	Ms. Aashna Paul, CIT DR

Date of hearing:	12/07/2022
Date of Pronouncement:	12/07/2022

**ORDER**

**PER N. K. BILLAIYA, AM:**

This appeal filed by the assessee is preferred against the order dated 24.12.2019 framed u/s. 147/143 (3)/263 of the Act.

2. The grievance of the assessee read as under :-

1. *That on the facts and in the circumstances of the case and in law, the order passed by the Learned Income Tax Officer, Ward 1(3), ("Ld. AO") pursuant to the order passed by Ld. Principal Commissioner of Income Tax u/s 263 of the Income Tax Act, 1961 ("the Act") is bad in law.*

2. *The Ld. AO erred on facts and in law by restricting partially the exemption u/s. 54F of the Act claimed by the Appellant on the long-term capital gain arising on sale of ancestral property of the family and in doing so have grossly erred in:*

2.1. *disregarding the fact that amendment in the Act brought in by Finance (No.2) Act, 2014 regarding investment in one residential house was only prospective and not applicable to AY 2009-10.*

2.2. *disallowing the claim of exemption u/s 54F of the Act on the second residential house property in name of the Son of the Appellant, who was the co-owner of the ancestral property sold.*

3. *The Ld. AO has erred in disregarding the judicial pronouncements in India in making the upward adjustment.*

4. *That on facts of the case and in law, the AO has erred in levying interest under section 234B, 234C and 234D of the Act while completely disregarding the provisions of the Act and the judicial precedence in this regard.*

5. *That on facts of the case and in law, the AO has grossly erred in initiating penalty proceedings under section 271(l)(c) of the Act.*

*That the above grounds and sub grounds of objections are without prejudice to each other.*

*The Appellant craves leave to alter, amend or withdraw all or any of the Grounds of objections herein or add any further grounds as may be considered necessary and to submit such statements, documents and papers as may be considered necessary either before or during the hearing.*

3. None appeared on behalf of the assessee inspite of notice. We have heard the DR at length.

4. A perusal of the aforestated grounds of appeal show that the assessee has filed appeal before the Tribunal directly against the assessment order framed u/s. 143 (3) r.w.s. 263 of the Act. In our considered view the assessee ought to have filed the appeal

first before the CIT(A) and thereafter approach this Tribunal. This appeal is not maintainable as per the provisions of the law before this Tribunal.

5. In the result, the appeal of the assessee is accordingly dismissed.

6. Decision announced in the open court on 12.07.2022.

Sd/-  
**(N. K. CHODHRY)**  
**JUDICIAL MEMBER**

Sd/-  
**(N. K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

\*NEHA\*

Date:- .07.2022

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	12.07.2022
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	