

IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI BENCH "SMC" : PANAJI
[THROUGH VIRTUAL HEARING]

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER

I.T.A.No.160/PAN/2019
Assessment Year 2013-14

Shivkumar Sangappa Saboji, CTS No.174, Budhwar Peth, Tilakwadi, Belgaum – 590 006. Karnataka. PAN BBUPS6615M	vs	The Income Tax Officer, [International Taxation], Ward – 1, Pundalik Niwas, 3 rd Floor, Near Patto Foot Bridge, Rua De Ourem, Panaji - 403001. Goa.
Appellant		Respondent

Assessee by :	Shri Shivanand Halbhavi
Revenue by :	Smt. Neelima Nadkarni, Sr.DR
Date of hearing :	29.11.2022
Date of pronouncement :	28.12.2022

ORDER

This assessee's appeal for Assessment Year 2013-14 is directed against the Commissioner of Income Tax (Appeals) Bangalore-12, Bangalore's order dated 28.03.2019 passed in case No.10445/CIT(A)-12/Bang/2017-18, in proceedings u/s.143(3) of the Income Tax Act, 1961 [in short "the Act"].

2. Heard both the parties. Case file perused.
3. It emerges during the course of hearing and from a perusal of CIT(A)'s detailed discussion in paragraphs 27 to 47 that he has declined the assessee's claim of section 54 deduction regarding three flats as to have been constructed/purchased for re-investment of the corresponding capital gains.

4. The Learned DR vehemently argued in light of CIT(A)'s detailed discussion that he has rightly followed ITO vs. Sushila Jhaveri [2007] 107 ITD 327 (Mum.) as well as Commissioner of Customs (Import), Mumbai vs. Dilip Kumar & Co. [2018] 9 SCC 1 (SC) (FB) that such deduction claim of multiple flats is not eligible for deduction.

5. All these Revenue's arguments hardly deserve to be accepted. This is for the precise reason that the hon'ble Karnataka high court happens to be assessee's jurisdictional high court which has already settled the issue in many of its decisions namely CIT vs., Smt. K.G. Rukminiamma 331 ITR 291 (Kar.) holding the concerned taxpayer as eligible for the impugned deduction. This is further coupled with the fact that we are in assessment year 2013-14 whereas the legislature has amended sec.54 of the Act by substituting "residential house" to "one residential house" w.e.f. 01.04.2015 carrying prospective effect only. I thus follow hon'ble jurisdictional High Court decision hereinabove to treat the assessee as eligible for claiming impugned sec.54 deduction. Necessary computation shall follow as per law.

6. This assessee's appeal is allowed.

Order pronounced in the open Court on 28th December, 2022.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Pune, Dated 28th December, 2022

VBP/-

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. DR, ITAT, SMC Bench, Panaji, Goa.
6. Guard File.

BY ORDER,

// TRUE COPY //

Senior Private Secretary
ITAT, Pune.