

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: A: NEW DELHI

BEFORE SHRI G.S PANNU, HON'BLE PRESIDENT  
AND  
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

ITA No.1509/Del/2022  
Assessment Year: 2015-16

Shri Amrik Sokhi, 98, Hargobind Enclave, Vikas Marg Extension, New Delhi 110092 <b>PAN AAQPS8410 G</b>	vs.	ITO, Ward-1(4), New Delhi
(Appellant)		(Respondent)

For Assessee :	Dr. Rakesh Gupta, Adv Shri Somil Aggarwal, Adv.
Revenue For :	Shri Kanv Bali, Sr. DR

Date of Hearing :	09.10.2023
Date of Pronouncement :	12.10.2023

**ORDER**

**PER CHANDRA MOHAN GARG, J.M.**

This appeal has been filed against the order NFAC/CIT(A), New Delhi dated 27.05.2022 for A.Y. 2015-16.

2. The Id. counsel submitted that having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in not allowing the benefit of deduction of Rs.1,42,419/- claimed by the assessee u/s 54F and that too by recording incorrect facts and findings and in violation of principles of natural justice and not appreciating/considering the submissions furnished by the assessee and more so when all the necessary conditions have been complied with by the assessee. He further submitted that having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in not allowing the benefit of deduction of Rs.67,71,823/- claimed by the assessee u/s 54 and that too by recording incorrect facts and findings and in violation of principles of natural justice and not appreciating/considering the submissions furnished by the

assessee and more so when all the necessary conditions have been complied with by the assessee. He also vehemently pointed out that in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in not allowing the aggregate deduction of Rs.69,13,842/- u/s 54 & 54F, is bad in law and against the facts and circumstances of the case.

3. The Id. counsel placing reliance on the order of ITAT Pune in the case of Ms. Anita Mahindrakumar Oberai vs. ITO in ITA No. 600/Pun/2020 order dated 01.02.2022 for AY 2015-16 submitted that when the assessee had purchased two flats for the purpose of use of the same as one residential unit then the assessee is entitle to get benefit u/s. 54/54F of the Act for second flat also. He further submitted that this fact may be verified and examined at the level of Assessing Officer.

4. Replying to the above, the Id. Senior DR supported the orders of the authorities below. However, in all fairness, he agreed to the submission of Id. counsel of assessee that the matter may be restored to the file of the Assessing Officer for verification and examination of fact as to whether the assessee has purchased two adjacent and joint flat for the purpose of using the same as one residential unit and after being satisfied to allow the benefit of exemption u/s. 54 and 54F of the Act.

5. On careful consideration of above submissions we find it appropriate to restore the matter to the file of Assessing Officer for verification and examination of above noted factual contentions of assessee after allowing due opportunity of hearing to the assessee and without being influenced with the earlier assessment and first appellate order.

6. In the result, the appeal of assessee is allowed for statistical purposes.

Order pronounced in the open court on 12.10.2023

Sd/-  
(G.S PANNU)  
PRESIDENT

Sd/-  
(CHANDRA MOHAN GARG)  
JUDICIAL MEMBER

Dated: 12<sup>th</sup> October, 2023

NV/-

Copy forwarded to:

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

// By Order //

Asstt. Registrar, ITAT, New Delhi