

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT SHRI  
LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No.1153/Bang/2023
Assessment Year : 2013-14

Sapna Hemanshu Shah, Flat No.401, Sankeshwar Apartment, No.77 Serpentine Road, Kumarapark West, Bangalore-560 020.  <b>PAN : AFAPS 5114 G</b>	Vs.	The Dy. Commissioner of Income Tax, Circle-2(2)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Sudheendra B.R, Advocate
Revenue by	:	Shri Ganesh R Ghale, Advocate – Standing Counsel for Revenue

Date of hearing	:	24.01.2024
Date of Pronouncement	:	30.01.2024

**ORDER**

**PER SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

This is an appeal filed by the assessee against the order passed by the NFAC, New Delhi on 26/10/2023 in DIN No.ITBA/NFAC/S/250/2023-24/1057418121(1)for the assessment year 2013-14.

2. At the outset of hearing, the ld.AR pressed only ground No.3 and accordingly, we are adjudicating ground No.3, which is as under:-

*“3. Ground relating to exemption under section 54 disallowed in respect of expenditure incurred on interiors of new residential house property.*

*3.1 The learned AO and the CIT(A), NFAC have erred in disallowing exemption under section 54 in respect of expenditure on interiors of new residential house property amounting to Rs.8,65,641/-.”*

2. The brief facts of the case are that the assessee filed return of income on 22/07/2013 declaring income of Rs.5,49,610/-. The case was selected for scrutiny and statutory notices were issued to the assessee. The assessee submitted reply and it was observed that the assessee sold the residential house vide sale deed dated 15/01/2013 for consideration of Rs.1,56,50,000/-. The assessee has arrived capital gain of Rs.1,25,06,186/- after reducing index cost of acquisition. Thereafter, the assessee has claimed exemption on account of advance given for purchase of plots of Rs.54,65,641/- and amounts deposited in capital gain account of Rs.70,40,545/-. Accordingly, the capital gain tax was computed Nil. As per nomination agreement, Mr. Hemansu M shah, the husband of assessee had negotiated to purchase the property for total sale consideration of Rs.1,40,00,000/- against which he had paid Rs.46,00,000/- as advance to the vendor. Accordingly, Mr. Hemansu M. Shah received Rs.46,00,000/- from Mrs. Sapna Shah and transfer the right in favour of the assessee. The assessee also submitted capital gain statement and the advance to the vendor was of Rs.46,00,000/-. Accordingly, the AO noticed that the claim of exemption on account of advance given for purchase of flats of Rs.54,65,641/-

is not correct and only advance given of Rs.46,00,000/- were allowed and the excess claim of Rs.8,65,641/- by the assessee towards interior decoration were disallowed under the capital gain head and other disallowance was also made and completed the assessment.

3. Aggrieved from the above order, the assessee filed appeal before the CIT(A). The CIT(A) after examining the agreement dated 25/03/2013 observed that the agreement is not genuine and assessee failed to produce the bills, vouchers with regard to interiors, copy of purchase deed or any other reliable documents for substantiating her claim of expenditure of Rs.8,65,641/- incurred on interiors. Accordingly, he dismissed the appeal of the assessee.

4. Aggrieved from the above order, the assessee fled appeal before the ITAT.

5. The Id.AR reiterated the submissions made before the lower authorities and submitted that the assessee transferred the amount into her husband's bank account of Rs.54,65,641/- on 25/03/2013 out of which Rs.8,65,641/- was towards expenditure for interiors and assessee's husband has incurred it for making the house habitable. The money was not directly incurred by the assessee but her husband has incurred, so it was given on contract basis, therefore, bills and vouchers were kept by the contractors, which has not been handed over to the

assessee and he also submitted as per the agreement placed at paper book page No.65-72 dated 25/03/2013. It is clear that the expenditure was to be incurred for interior decoration and there is no dispute on the payments made. Accordingly, he submitted that the assessee is eligible to get the cost of acquisition as a deduction on interiors expenditure of Rs.8,65,641/- . He referred to the argument. The ld.AR of the assessee relied on the followings judgments:-

- 1) Rajat B Mehta in ITA No.19/Ahd/2016
- 2) Meher R Surti Vs. ITO [2013] 40 taxmann.com 138 (Mum – Trib]
- 3) Mrs. Rahana Siraj Vs. CIT [2015] 58 taxmann.com 333 [Kar]
- 4) [2022] 140 taxmann.com 441 [Bang. Trib]

6. On the other hand, the ld.DR relied on the orders of the lower authorities and strongly submitted the agreement made by the assessee for expenditure towards interiors of Rs.8,65,641/- is not genuine as observed by the ld.CIT(A). The assessee is also unable to produce any credible evidence towards expenditure incurred, therefore, the lower authorities are justified.

7. Considering the rival submissions, we note that the dispute is only towards interior decoration expenses as incurred by the assessee of Rs.8,65,641/- for want of credible evidences.

We note from the bank statement submitted by the assessee at paper book page No.57 that the assessee has paid amount on 25/03/2013 of Rs.54,65,641/- vide cheque No.363832, out of which, Rs.46,00,000/- was given as advance for purchase of the property and as per the paper book page No.65 to 72, the second party with the permission of the vendor, Shri Sanjay Udani has carried out lot of interior decorations in the schedule B property spending substantial amount of Rs.8,65,641/- and it has been brought into the notice of the first party who was convinced about the interior decoration. The payment made by the assessee has not been disputed by any of the lower authorities and payment was made to her husband and both are residing together. The case law relied by the Id.AR of the assessee supports the case of the assessee. Accordingly, the expenditure incurred by the assessee for interior decoration is eligible to get the benefit of deduction u/s 54 of the Act.

8. The other grounds raised by the assessee is dismissed as not pressed.

9. In the result, appeal of the assessee is partly allowed.

Order pronounced in court on 30<sup>th</sup> day of January, 2024

Sd/-

**(GEORGE GEORGE K)**

Vice President

Bangalore

Dated : 30.01.2024.

Vms+

Sd/-

**(LAXMI PRASAD SAHU)**

Accountant Member

Copyto:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.