IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH : BANGALORE

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

ITA No.691/Bang/2023
Assessment Year : 2008-09

ACIT, Circle – 4(1)(1), Bengaluru.	Vs.	Shri Narayanappa Ramanna, 1 B, Narayanapur Village, K. R. Puram Hobli, Bengaluru – 560 016. **PAN : AFMPR 3833 C**
APPELLANT		RESPONDENT

Revenue by	:	Shri. Subramanian S, JCIT(DR)(ITAT), Bengaluru.
Assessee by	:	Shri. Ganesh S, Advocate.

Date of hearing	:	16.04.2024
Date of Pronouncement	:	16.04.2024

O R D E R

Per George George K, Vice President:

This appeal at the instance of the Revenue is directed against order of CIT(A) dated 15.06.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called 'the Act'). The relevant Assessment Year is 2008-09.

2. Brief facts of the case are as follows:

Assessee, along with his four brothers, had entered into a Joint Development Agreement (JDA) with M/s. Nagarjuna Construction Co. Ltd., (NCC). By virtue of the JDA with NCC, assessee received 15 constructed apartment units. The AO completed the assessment under section 143(3) r.ws. 147 of the Act vide order dated 21.03.2016. In the said Assessment Order, the AO

disallowed the claim of deduction under section 54F of the Act in respect of 14 apartment units and allowed the benefit of investment only on one apartment unit by interpreting as “a residential house” as per the provisions of section 54F of the Act as existing during the relevant Assessment Year viz., Assessment Year 2008-09, to mean only one residential unit.

3. Aggrieved by the denial of deduction under section 54F of the Act, assessee preferred appeal before the First Appellate Authority. The CIT(A), by relying on various judgments, allowed the appeal of the assessee.

4. Aggrieved by the Order of the CIT(A), Revenue has filed the present appeal before the Tribunal.

5. Learned DR relied on the grounds raised.

6. The learned AR, on query by the Bench, submitted that in the case of the other three co-owners, the appeal is pending before the CIT(A) and in the case of one co-owner, it did not culminate in a scrutiny assessment. With regard to the issue on merits, the learned AR submitted that prior to the amendment to section 54/54F of the Act w.e.f. 01.04.2015, the issue stands covered in favour of the assessee by following the judicial pronouncements:

a. 2021 (7) TMI 674 - ITAT BANGALORE - SMT. KEMPANNA SHYLAJA VERSUS THE INCOME TAX OFFICER WARD 6 (3) (1) BENGALURU

b. 2020 (6) TMI 513 - Kar HC - Arun K Thiagarajan vs CIT (Appeals), The DCIT, Circle 3(1)

c. 2010 (8) TMI 482 - KARNATAKA HIGH COURT - COMMISSIONER OF INCOME-TAX VERSUS SMT. KG. RUKMINIAMMA

d. 2009 (8) TMI 1145 - SC ORDER - COMMISSIONER OF INCOME TAX MYSORE 86 ANR. VERSUS D. ANANDA BASAPPA

e. 2008 (10) TMI 99 - KARNATAKA HIGH COURT - COMMISSIONER OF INCOME-TAX AND ANOTHER VERSUS D. ANANDA BASAPPA

f. 2014 (8) TMI 899 - MADRAS HIGH COURT - COMMISSIONER OF INCOME TAX VERSUS SMT. VR. KARPAGAM

7. We have heard the rival submissions and perused the material on record. The solitary issue for our consideration is whether the CIT(A) is justified in directing the AO to grant deduction under section 54F of the Act in respect of 15 apartment units for the relevant Assessment Year viz., 2008-09. The AO had denied the exemption under section 54F of the Act in respect of 14 apartment units (total claim of deduction under section 54F of the Act for 15 apartment units) for the reason that pursuant to the JDA, assessee had received multiple residential units and not a single residential unit. The provisions of section 54F of the Act was amended vide Finance (No.2) Act, 2014 with effect from 01.04.2015 and has withdrawn deduction for more than one residential unit with effect from 01.04.2015 by replacing word "a" with "one". In this context, it is relevant to mention that the Hon'ble jurisdictional High Court, prior to the amendment, in the case of CIT v. Smt. K. G. Rukminiamma reported in 331 ITR 211 had held that "residential unit house", used in section 54 makes it clear that it was not the intention of the legislature to convey the meaning that it refers to a single residential house. It was held by the Hon'ble High Court that if that was the intention, they would have used the word "one". As in the earlier part, the words used are buildings or lands which are plural in number and that is referred to as "a residential house, the original asset. It was further observed by the Hon'ble Court that an asset newly acquired after the sale of the original asset also can be buildings

or lands appurtenant thereto, which also should be "a residential house". Therefore, the letter "a" in the context it is used should not be construed as meaning "single". It was concluded by the Hon'ble High Court that, being an indefinite article, the said expression should be read in consonance with the other words "buildings" and "lands" and, therefore, the singular "a residential house" also permits use of plural by virtue of section 13(2) of the General Clauses Act. A similar view was taken by the Hon'ble Karnataka High Court in the case of D. Ananda Basappa v. ITO reported in 309 ITR 329 (Kar.).

8. Further, the amendment to section 54 of the Act with effect from 01.04.2015 has been held to be prospective by the Hon'ble Karnataka High Court in the case of Arun K. Thiagarajan (supra). The relevant finding of the Hon'ble jurisdictional High Court in the case of Arun K. Thiagarajan (supra), reads as follows:-

> *"12. A Bench of this court in the case of Smt. K. G. Rukminiamma (supra) dealt with the meaning of expression `a residential house' used in Section 54(1) of the Act while taking into account Section 132(2) of the General Clauses Act, 1897 held that unless there is anything repugnant in the subject or context, the words in singular shall include the plural and vice versa. It was further held that context in which the expression `a residential house' is used in Section 54 makes it evident that it is not the intention of the legislature to convey the meaning that it refers to a single residential house. It was also held that an asset newly acquired after sale of original asset can also be buildings or lands appurtenant thereto, which also should be residential house, therefore, the letter `a' in the context it is used should not be construed as meaning singular, but the expression should be read in consonance with other words viz., buildings and lands. Accordingly, the contention raised by the revenue was rejected. Similar view was taken by a bench of this court in Khoobchand M. Mukhija (supra) B Srinivasappa and in the case of Smt. Jyothi K. Mehta (supra).*
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> *The Madras High Court while dealing with Section 54 of the Act as it stood prior to amendment by Finance Act No.2/2014 in the case of Tilokchand &*

Sons (supra) took the similar view and held that the word `a' would normally mean one but in some circumstances it may include within the ambit and scope some plural numbers also. The Delhi High Court also took the similar view in case of Gita Duggar (supra).

13. It is well settled in law that an Amending Act may be purely clarificatory in nature intended to clear a meaning of a provision of the principal Act, which was already implicit [See:Decision of the Supreme Court in CIT v. Ram Kishan Das [2019] 103 Taxmann.com 414/263 Taxman 657/413 ITR 337.

In view of the aforesaid enunciation of law by different High Courts including this court and with a view to give definite meaning to the expression `a residential house', the provisions of section 54(1) were amended with an object to restrict the plurality to mean singularity by substituting the word `a residential house' with the word `one residential house'. The aforesaid amendment came into force with effect from 01.04.2015. The relevant extracts of Explanatory note to provisions of Finance (No.2) Act, 2014 reads as under:

> *20.3 Certain courts had interpreted that the exemption is also available if investment is made in more than one residential house. The benefit was intended for investment in one residential house within India. Accordingly, sub-section (1) of section 54 of the Income-tax Act has been amended to provide that the rollover relief under the said Section is available if the investment is made in one residential house situated in India.*
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> *2.5 Applicability - These amendments take effect from 1st April, 2015 and will accordingly apply in relation to assessment year 2015-16 and subsequent assessment years.*

Thus, it is axiomatic that the aforesaid amendment was specifically applied only prospectively with effect from assessment year 2015-16.

14. The subsequent amendment of section 54(1) also fortifies the fact that the legislature felt the need of amending the provisions of the Act with a view to give a definite meaning to the expression `a residential house', which was interpreted as plural by various courts by taking into account the context in which the aforesaid expression was used. The subsequent amendment of the Act also fortifies the view taken by this court as well as Madras High Court and Delhi High Court. It is trite law that the principle

underlying the decision would be binding as precedent in a case. In Halsbury Laws of England, Volume 22. Page 1682. Page 796, the relevant extract reads as under:

> *The enunciation of the reasons or principle on which a question before a court has been decided is alone binding as a precedent. This underlying principle is often termed the ratio decided, that is to say, the general reasons given for the ecision of the general grounds on which it is based, detached or abstracted from the specific peculiarities of the particular case which gives rise to the decision.*
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> *[Also see `Sate of Haryana v. Ranbir of Rand, (2006) 5 SCC 167 & Girnar Traders v. State of Maharashtra [2007] 7 SCC 555].*

15. This Court as well as Madras and Delhi High Court have interpreted the expression `a residential house' and have held that the aforesaid expression includes plural. The ratio of the decisions rendered by coordinate bench of this court are binding on us and we respectively agree with the view taken by this court while interpreting the expression `a residential house'. Therefore, the contention of the revenue that the assessee is not entitled to benefit of exemption under section 54(1) of the Act in the facts of the case does not deserve acceptance."

9. The Hon'ble Madras High Court in the case of CIT Vs. Smt. V. R. Karpagam reported in [2015] 373 ITR 127 (Mad) had categorically held that the principles mentioned in section 54 of the Act is to be applied paripassu to section 54F of the Act. In view of the aforesaid judicial pronouncement, we hold that assessee is entitled to the benefit of section 54F of the Act in respect of all the units received by the assessee pursuant to the JDA, since the relevant Assessment year is prior to the amendment to section 54F of the Act (i.e., 01.04.2015). It is ordered accordingly.

10. In the result, appeal filed by the Revenue is dismissed.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-	**Sd/-**
(LAXMI PRASAD SAHU)	**(GEORGE GEORGE K)**
Accountant Member	**Vice President**

Bangalore.
Dated: 16.04.2024.
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Copy to:

1.	Appellants	2.	Respondent
3.	DRP	4.	CIT
5.	CIT(A)	6.	DR, ITAT, Bangalore.
7.	Guard file		

By order

Assistant Registrar,
ITAT, Bangalore.