

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

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

<b>ITA No. 687/Bang/2024</b>
<b>Assessment Year : 2021-22</b>

Smt. Syeda Bibi Sadiqa, Prestige Hutchins Court, Hutchins Road, Bangalore – 560 005. <b>PAN: BQIPS3805E</b>	<b>Vs.</b>	The Deputy Commissioner of Income Tax, Circle – 1(1)(1), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri B. Chataraj, CA
Revenue by	:	Shri V. Parithivel, JCIT – DR

Date of Hearing	:	16-05-2024
Date of Pronouncement	:	12-06-2024

**ORDER**

**PER KESHAV DUBEY, JUDICIAL MEMBER**

This appeal at the instance of the assessee is directed against the CIT(A)/NFAC order dated 19.02.2024 vide DIN & Order No. ITBA/NFAC/S/250/2023-24/1061124535(1) passed u/s. 250 of the IT Act, 1961 for AY 2021-22.

2. The assessee has raised the following grounds:

*“And in the matter of Appeal Order vide DIN & Order No: ITBA/NFAC/S/250/2023-24/1061124535(1) dated 19/2/2024*

*1. The Learned Commissioner of Income Tax Appeal erred in ascertaining the facts while computing available deduction u/s 54 of IT Act 1961. The Learned CIT(A) had mistakenly taken the cost of the new residential house purchased by the assessee for claiming deduction u/s 54, at Rs.1,03,60,000 while the actual cost as per the purchase deed dated 1703-2023 was at Rs. 18,50,00,000 the sum of Rs. 1,03,60,000 is only the stamp duty charge which needs to be added to the purchase cost making the total at Rs. 19,53,60,000*

*2. The Deduction under Section 54 as determined by the learned CIT Appeal needs to be corrected as under: The total sale proceeds of the apartments is 3,86,00,000 less: Cost of the new asset being 19,53,60,000. The deduction is restricted to the Sale Proceeds i.e 3,86,00,000.*

*3. The Learned CIT (A) had a misplaced idea that the interest amount paid to the bank was not on the borrowed capital for renovation of the property though a certificate issued by Mssrs Kotak Bank was adduced before him it is notable that during the course of hearing the Ld CIT(A) had not asked for or expressed that the certificate issued by the bank was not sufficient for claiming deduction. Had he expressed his mind and called for the evidence these were readily available for submission.*

*4. The Ld CIT(A) erred in not allowing the interest as deduction u/s 24 of the IT Act though a similar deduction was claimed and allowed in the preceding years.*

*5. Had the LD CIT(A) called for the documents before finalisation of the appeal the documents could have been easily submitted. The Appellant had infact entrusted the task of renovation to Mssrs. Salarpuria Group and Colliers International (India) Property Services Pvt Ltd and the loans were disbursed by the bank directly to these companies these are now adduced as evidences for the bank loan which may kindly be admitted and considered for allowing the deduction u/s 24.”*

3. The brief facts of the case are that the assessee has filed his return of income for A.Y. 2021-22 on 03.11.2021 declaring income amounting to Rs.2,84,00,400/-.The assessee being an individual earned income mainly from house property and interest from bank. Thereafter, the case was selected for scrutiny for the reason that the assessee has claimed deduction amounting to Rs.3,86,00,000/- u/s. 54 of the IT Act, 1961. Further, as the assessee has invested in the time deposit amounting to Rs. 80 Lakhs with HDFC Bank, the Ld.AO asked to provide the proof of the source of investment amounting to Rs. 80 Lakhs. Further, the assessee has also deposited Rs. 40 Lakhs in HDFC Bank for which the assessee was also asked to prove the source of deposit of the same. During the course of assessment proceeding, as the assessee has claimed deduction u/s. 80C amounting to Rs.1,50,000/-, the assessee was requested to provide the documentary proof of investment made on the basis of which deduction u/s. 80C has been claimed. Thereafter, the assessing officer concluded the assessment proceeding by disallowing only the claim of deduction u/s. 54 of the IT Act on the ground that assessee has not provided any proof against the deduction claimed. Further, the Ld.AO disallowed the interest paid on house building loan claimed amounting to Rs.48,26,105/- as the assessee has not furnished any requisite certificate issued by the concerned bank on account of payment of interest on housing loan. Further, the Ld.AO added back the investment in fixed deposit amounting to Rs. 80 Lakhs with HDFC Bank being unexplained investment as income u/s. 69 r.w.s 115BBE of the IT Act, 1961 as the source of such

investment for purchasing time deposit from HDFC Bank was not discharged. The Ld.AO on the same line, had also added cash deposit amounting to Rs. 40 Lakhs in HDFC Bank u/s. 69 of the IT Act as the assessee failed to furnish source of deposits and lastly the deduction claimed u/s. 80C amounting to Rs. 1,50,000/- was also disallowed as inspite of several reminders, the assessee had failed to furnish any evidence and thus the assessing officer completed the assessment u/s. 143(3) r.w.s. 144B of the IT Act on a total income of Rs. 8,50,32,110/-.

4. Aggrieved by the assessment order completed u/s. 143(3) of the IT Act, 1961 dated 19.12.2022, the assessee preferred an appeal before the Ld.CIT(A)/NFAC.

5. The Ld.CIT(A) with regards to addition of Rs. 3,86,00,000/-, has observed that during the course of appellate proceeding, as the deed of sale dated 17.03.2023 between M/s. DRA Projects Pvt. Ltd. (sellers) and Syeda Bibi Sadiqa (purchaser) has only been submitted and the purchase cost is shown as Rs.1,03,60,000/- and considering the same, the Ld.CIT(A) held that the assessee is eligible only for exemption of Rs.1,03,60,000/- (3,86,00,000 - 1,03,60,000) and thus balance of Rs.2,82,40,000/- is taxable as long term capital gain. As the cost of the asset has not been substantiated with the document, hence the Ld.CIT(A) is of the opinion that benefit cannot be given to the assessee.

6. Further with regard to claim of deduction relating to interest on loan amounting to Rs.48,26,105/-, the Ld.CIT(A) was of the opinion that as the loan is a simple loan and not the home loan and assessee has not produced any document to show the nature of the loan and accordingly he rejected the claim of the interest on loan as not proved by the appellant and allowed the rest of the additions made by the assessing officer on merits.

7. Again aggrieved by the order of the Ld.CIT(A), the assessee filed the present appeal before this Tribunal.

8. Before us, the Ld.AR of the assessee vehemently argued that with regard to disallowance of deduction u/s. 54 of the I.Tax Act amounting to Rs.2,82,40,00/- by the Ld.CIT(A) is on the **mistaken ground** that the cost of new residential house property purchased by the assessee for claiming deduction u/s. 54 amounting to Rs. 1,03,60,000/- whereas the actual cost as per the purchase deed dated 17.03.2023 was is Rs.18,50,00,000/-. The sum of Rs.1,03,60,000/- is only the stamp duty charge which needs to be added to the purchase cost to arrive at the total purchase Cost at Rs.19,53,60,000/- and submitted that as the total sales proceeds of the apartment is Rs. 3,86,00,000/-, the entire cost of new assets being Rs. 19,53,60,000/- the deduction u/s. 54 may be restricted to the sale proceeds of Rs.3,86,00,000/-. Further, with regard to disallowance of interest on housing loan, claim u/s. 24 of the IT Act, the Ld.AR submitted that the certificate issued by Kotak Bank was produced before him and the Ld.CIT(A) never asked any further

evidence to support the claim of the assessee. Further, the Ld.AR submitted before us that the similar deduction u/s. 24 of the IT Act was also claimed in past and allowed in the preceding years. During the course of proceeding before us, the Ld.AR of the assessee on request produced the computation of income for the A.Y. 2021-22. The Ld.DR supported the orders of the income tax authorities below but also agreed that the Ld.CIT(A) has mistakenly taken the cost of new residential house at Rs.1,03,60,000/- instead of actual purchase price of Rs.19,53,60,000/- as a sum of Rs.1,03,60,000/- is only the stamp duty charged for the purchase of the said property.

9. We have heard the rival submissions and perused the material on record.

10. The ground nos. 1 and 2 are related to the additions confirmed by CIT(A) amounting to Rs.2,82,40,000/- as long term capital gain. It is undisputed fact that the assessee had purchased a new property on 17.03.2023 from M/s. DRA Projects Pvt. Ltd. represented by its general power of attorney holder M/s. Prestige Estates Projects Ltd. at a cost price of Rs.18,50,00,000/- (page 6 of the sale deed) and paid the stamp duty amounting to Rs. 1,03,60,000/- on the same. Therefore the total cost of purchase shall be taken at Rs. 19,53,60,000/-. We are of the opinion that the Ld.CIT(A) on the mistaken ground had disallowed the claim of deduction u/s. 54 amounting to Rs.2,82,40,000/- treating Rs. 1,03,60,000/- as the cost of new asset which is in fact only the stamp duty paid by the assessee.

Therefore, the entire purchase cost amounting to Rs. 19,53,60,000/- should be allowed as deduction u/s. 54 of the IT Act. However, this deduction may be restricted to the sale proceeds i.e. Rs. 3,86,00,000/-.

Accordingly the ground nos. 1 and 2 are allowed in favour of the assessee.

11. Ground nos. 3-5 are related to disallowance of interest on housing loan claimed u/s. 24 of the I.Tax Act amounting to Rs.48,26,105/-. The assessee has produced interest certificate issued by the Kotak Mahindra Bank for the F.Y. 2020-21 in which the bank had certified that the interest amounting to Rs.48,26,105.57/- have been paid towards the loan. Further, this loan was not taken afresh for any renovation of the property and the assessee was claiming similar deduction u/s. 24 in the preceding years and also allowed by the department. The Ld.CIT(A) on the mistaken ground that housing loan has been taken for the purpose of renewal of the same property which is already under rent had disallowed the entire claim of deduction u/s. 54 of the IT Act. We are of the opinion that assessee had received rent amounting to Rs.4,74,69,381/- during the F.Y. 2020-21 relevant for the A.Y. 2021-22. Therefore, the house property is let out during the year and there is no maximum limit on the deduction for interest on borrowed capital. In the instant case, as the assessee has produced the bank certificate showing payment of interest towards loan, which the assessee was claiming in the preceding years and allowed by the IT department also. We find no merits in disallowing the deduction of

Rs.48,26,105/- paid towards interest on housing loan u/s. 24 of the IT Act.

Accordingly the ground nos. 3 to 5 of the assessee are also allowed.

**In the result, the appeal filed by the assessee is allowed.**

**Order pronounced in the open court on 12<sup>th</sup> June, 2024.**

Sd/-  
(CHANDRA POOJARI)  
Accountant Member

Sd/-  
(KESHAV DUBEY)  
Judicial Member

Bangalore,  
Dated, the 12<sup>th</sup> June, 2024.  
/MS /

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|---------------|------------------------|
| 1. Appellant  | 2. Respondent          |
| 3. CIT        | 4. DR, ITAT, Bangalore |
| 5. Guard file | 6. CIT(A)              |

By order

Assistant Registrar,  
ITAT, Bangalore