

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: HYBRID MODE

श्री विक्रम सिंह यादव, लेखा सदस्य एवं श्री परेश म. जोशी, न्यायिक सदस्य  
BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JM

आयकर अपील सं. / ITA NO. 451/Chd/2024  
निर्धारण वर्ष / Assessment Year : 2007-08

Subhash # S-9, Village Sasauli, Near Govt. High School, Yamunanagar, Haryana-135002	बनाम	The ITO Ward-3 Yamunanagar
स्थायी लेखा सं. / PAN NO: DXGPS2112P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Ankush Sharma, Advocate  
राजस्व की ओर से / Revenue by : Dr. Ranjeet Kaur, Sr. DR  
सुनवाई की तारीख / Date of Hearing : 19/09/2024  
उदघोषणा की तारीख / Date of Pronouncement : 25/09/2024

**आदेश / Order**

**PER VIKRAM SINGH YADAV, A.M. :**

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC, Delhi dt. 21/02/2024 pertaining to Assessment Year 2007-08 wherein the limited ground of appeal taken by the assessee relates to non- grant of deduction under Section 54B of the Act.

2. Briefly the facts of the case are that the assessment in this case was completed under section 144 r.w.s 147 of the Act vide order dt. 27/02/2015 wherein the AO has brought to tax the sale consideration of the land sold at Village Kheri Rangran which falls within 8 Km. of the municipal limits of Jagadhri within the ambit of capital assets as per provisions of Section 2(14) of the Act after providing index cost of acquisition as on 01/04/1981 and determining Long Term Capital Gain (LTCG). Thereafter, the assessee carried the matter in appeal before the Ld. CIT(A) and one of the grounds raised by the assessee relates to non-grant of deduction under section 54B and 54F of the Act.

3. During the course of appellate proceedings, the assessee also moved an application under section 46A of the Act which was forwarded to the AO and remand

report was also called and after considering the submissions of the assessee, the Ld. CIT(A) has returned a findings that the assessee is eligible for deduction under section 54F of the Act to the extent of expenditure incurred for the construction of the house amounting to Rs. 28,75,000/- basis fresh valuation report, certificate of Mayor, copy of electricity bill as well as the bank certificate. However, as far as claim of deduction under section 54B of the Act was concerned, no findings has been recorded by the Ld. CIT(A) and as against LTCG of Rs. 41,37,368/- determined by the AO, the Ld. CIT(A) has allowed the deduction under section 54F amounting to Rs. 28,75,000/- and the remaining LTCG of Rs. 12,52,368/- was sustained by him.

4. During the course of hearing, our reference was drawn to the remand report submitted by the AO wherein he has stated that the assessee is entitled to get deduction under section 54B of the Act to the extent of 1/3<sup>rd</sup> share amounting to Rs. 6,57,200/- as another agriculture land was purchased by the assessee within the stipulated period. It was submitted that the copy of the purchase deed and the remand report is very much part of the record and the claim of deduction under section 54B has not been allowed to the assessee by the Id CIT(A) even though AO in the remand report has fairly agreed that assessee is eligible for claim of deduction under section 54B of the Act.

5. Per contra, the Ld. DR has relied on the order of the lower authorities. It was submitted that there is no findings recorded by the Ld. CIT(A) as far as claim of deduction under Section 54B of the Act and accordingly matter may be set aside to the file of the Ld. CIT(A).

6. We have heard the rival contentions and perused the material available on record. The limited issue under consideration relates to claim of deduction u/s 54B of the Act which the assessee has raised before the Id CIT(A) and as so submitted by the Id AR, the AO in the remand proceedings has verified the documentation and claim so made and in his remand report has stated that the assessee is entitled to get deduction under section 54B of the Act to the extent of 1/3<sup>rd</sup> share amounting to Rs. 6,57,200/- as another agriculture land was purchased by the assessee within the stipulated period and therefore, the claim of the assessee be allowed.

7. On perusal of the remand report dated 21/08/2017 submitted by the ITO Ward -4, Yamuna Nagar, which is available on record, it is noted that the AO has stated that a purchase deed for Rs 18,60,000/- dated 4/10/2006 has been submitted by the assessee wherein the name of the seller is Shri Narinder Singh and the name of the purchasers are Shri Raj Kumar, Shri Balwinder Kumar and Shri Subhas, each holding 1/3 share in the said property and has returned a finding that the land has been purchased by the assessee within stipulated time but the name of the father/grandfather are not matching in the sale and purchase deed and in absence of matching of the said particulars, the claim of the assessee u/s 54B may kindly be decided on merits. The Id CIT(A), NFAC Delhi has apparently not considered the said remand report and even the ground of appeal so taken by the assessee has not been adjudicated upon. Given that and the fact that some mismatch in the particulars in the sale and purchase deed have been pointed out by the AO, we deem it appropriate to set-aside the matter to the file of the Id CIT(A) to decide the same afresh as per law after considering the remand report and after providing reasonable opportunity to the assessee.

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

Order pronounced in the open Court on 25/09/2024

Sd/-

**परेश म. जोशी**  
(PARESH M. JOSHI)  
न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-

**विक्रम सिंह यादव**  
(VIKRAM SINGH YADAV)  
लेखा सदस्य/ ACCOUNTANT MEMBER

**AG**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar