

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'G' : NEW DELHI

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

ITA No.1767/Del/2025
Assessment Year : 2022-23

Assistant Commissioner of
Income Tax,
Circle-28(1),
New Delhi.

Vs. Ms. Shalini Garg,
H.No.21, B/3,
Srinivaspuri, Friends Colony West,
New Delhi – 110 065.
PAN : AAPPG8441C.

(Appellant)

(Respondent)

Assessee by : Shri Jaspal Singh, CA.
Revenue by : Shri Manish Gupta, Senior DR.

Date of hearing : 11.11.2025
Date of pronouncement : 14.11.2025

ORDER

PER MAHAVIR SINGH, VP

This appeal by the Revenue is arising out of the order learned CIT(A), NFAC, Delhi in appeal No.NFAC/2021-22/10330544, order dated 20th January, 2025.

2. The assessment was framed by the Assessing Officer of NFAC, Delhi for the assessment year 2022-23 under Section 143(3) read with Section 144B of the Income-Tax Act, 1961 (hereinafter 'the Act'), vide his order dated 6th March, 2024.

3. The only issue in this appeal of the Revenue is against the order of learned CIT(A) deleting the addition made by the Assessing Officer in disallowing the claim of exemption under Section 54 of the Act in respect of capital gain earned out of sale of property during the relevant assessment year.

4. We have heard rival contentions and gone through the facts and circumstances of the case. We noted that the assessee has sold her 50% share of her farmhouse to Manvi Realtors for a total consideration of ₹16,17,50,000/- on 7th February, 2022. The assessee purchased a new property i.e., land on 23rd August, 2021 at 484/2/2 in Makarba Village for a total consideration of ₹12.51 crores. The assessee purchased this plot of land and thereafter started construction. It was claimed before the Assessing Officer that the assessee sold this property on which capital gain had arisen on 18th January, 2025 and started construction of residential house on the same and also given the details that the assessee has already incurred expenditure of ₹2.50 crores till 31st December, 2023 towards construction, electricity connection, water connection, etc., and assessee expects to complete the work by the end of the year 2024 itself. Learned Counsel, before the Assessing Officer, contended that there is a time limit for construction of three years, which ends in February, 2025 and therefore, in the financial year 2020-21 relevant to the assessment year 2021-22, there is no question of any addition to the capital gain. The Assessing Officer, without going into the details of facts, made addition by disallowing the claim of deduction of ₹13,05,49,213/-. Aggrieved, assessee preferred appeal before the learned CIT(A).

5. Learned CIT(A), after going through these details, deleted the disallowance and allowed the ground of the assessee by observing as under:-

"I have gone through the submission and same has been perused carefully. It is pertinent to note that the appellant had purchased the immovable property on 23.03.2016 for total sale consideration amounting to Rs.2,50,00,000/- and same was sold by the appellant on 07.02.2022 for total sale consideration amounting to Rs.16,17,50,000/- and having half share of the said property. The copy of sale deeds was duly submitted before the Assessing Officer.

The income under the head capital gain of Rs.13,05,49,213/- had been duly disclosed in the return of income of the appellant. Further, appellant has invested the amount of capital gain in purchasing land for construction of residential house. The said land was purchase on 27.05.2022 for total sale consideration amounting to Rs.12,51,00,000/- and stamp duty and registration charges paid for registration of the sale deed of the said property was Rs.61,31,000/-. Thus, total sale consideration value amount of Rs.13,12,31,000/- was spent for purchased of said property and copy of purchase deed was submitted before the AO. Deduction under section 54 amounting to Rs.13,05,49,213/- was claimed by the appellant in respect of the said property.

In view of the above discussion, it is pertinent to note that the appellant has transferred the original asset on 07.02.2022 accordingly the time period available for construction is three years from the date of transfer of original asset i.e. upto 06.02.2025. Thus, denying exemption by the Assessing Officer as order vide no.ITBA/AST/S/143(3)/2023-24/1062096661(1) dated 06.03.2024 stating that completing certificate of construction of property was not provided is completely unwarranted and against the law. Since the statue has given the clear time period of three year, for construction of new asset, from the date of transfer of original asset, denying exemption almost one year before the period on the ground that construction was not completed is absolutely unwarranted and blatant disregard to the provisions of law.

From above it is crystal clear the exemption claimed under section 54 of the Income Tax Act was based on the purchase of a land for the purpose of constructing a new residential house. The expenses incurred towards the ongoing construction were substantiated with sample invoices submitted before the Assessing Officer. It is important to note that though the appellant has diligently adhered to the timeframe stipulated under section 54 for completing the construction of the residential house. As per the provisions the appellant has until 06.02.2025 to complete the construction, and expenses have been incurred accordingly. Thus, the appellant has completed the construction of the house within the time period and furnished the completion certificates dated 02.01.2025.

In view of the above discussion, it is pertinent to note that the appellant has having the source of income during the year under consideration was receipts of sale consideration of Rs.16,17,50,000/- for sale of property. And also the source of income of the Co-purchaser is salary income and rental income. After verified the details, it is found that the co-purchaser filed the return of income for the last three years and same property duly reflected in the return of income. In light of the above decisions all the arguments and various judicial pronouncements, I am following the Hon'ble judicial judgment and considering the facts and circumstances of the case, it is found that construction of a new residential house is completed within a period of three years from date of transfer of original asset, benefit of exemption under section 54F has to be allowed with reference to whole of cost of plot or cost of construction thereon, even if such a process of purchasing plot or constructing house started within a reasonable time anterior to date of transfer of original asset, the impugned addition of Rs.13,05,49,213/- was not warranted. It is also fact that the Assessing Officer has not considered the submission submitted by the appellant during the course of assessment proceedings on 03.07.2023, 03.10.2023, 04.10.2023, 27.01.2024, 06.02.2024, 26.02.2024 & 28.02.2024. The contention of the appellant is found tenable. Hence, the ground raised by the appellant is allowed."

6. Before us, learned CIT-DR could not controvert the finding of the learned CIT(A).

7. We noted that the assessee has purchased plot of land at Survey No.484/2/2, Karnavati Road, Makarba, Village Makarba, Taluka Ahmedabad City, and District Ahmedabad and constructed the residential house with a total built up area of approximately 11,240 sq.ft. and, as per certificate of some Advisory Consultant, the construction on the property has been completed as per plan as on date i.e., 2nd January, 2025. We noted that whatever may be the situation, the capital gain cannot be assessed in this year i.e., assessment year 2022-23 because the assessee is carrying out construction and making investment in the new residential house after

purchase of land, which is not in dispute. We find no infirmity in the findings of learned CIT(A) and hence, the order of learned CIT(A) is affirmed and the appeal of the Revenue is dismissed.

8. In the result, the appeal of the Revenue is dismissed.
Decision pronounced in the open Court on 14th November, 2025.

Sd/-
(KRINWANT SAHAY)
ACCOUNTANT MEMBER

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

VK.

Copy forwarded to: -

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

Assistant Registrar