

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH, MUMBAI**

**BEFORE SHRI PAWAN SINGH, JM &  
MS PADMAVATHY S, AM**

**I.T.A. No. 3568/Mum/2025  
(Assessment Year: 2021-22)**

<b>DCIT (CC)-4(2),</b> Room No. 419, Kautilya Bhawan, C41-43, G Block BKC, Gilbana Area, Bandra Kurla Complex, Bandra (E), Mumbai-400051.	Vs.	<b>Ashish Mehdiratta,</b> 202, Crown Block, Eldeco Green, Gomti Nagar, Lucknow-226010, Uttar Pradesh. <b>PAN: ACKPM0029M</b>
<b>Appellant)</b>	:	<b>Respondent)</b>

**Revenue by** : Shri Surendra Mohan, Sr. DR

**Assessee by** : Shri Kalrav Mehrotra, AR

**Date of Hearing** : 10.11.2025

**Date of Pronouncement** : 13.11.2025

**ORDER**

**Per Padmavathy S, AM:**

This appeal by the revenue is against the order of the Commissioner of Income Tax (Appeals) / National Faceless Appeal Centre (NFAC), Delhi [In short 'CIT(A)'] passed under section 250 of the Income Tax Act, 1961 (the Act) dated 24.03.2025 for Assessment Years (AY) 2021-22. The grounds raised by the revenue are as under:

*"1. On the facts and circumstances of the case, the Ld. CIMA) erred in deleting addition Rs.4,78,80,000/- as against the disallowance of deduction under section 54 of the Income Tax Act, 1961 without appreciating the fact that the assessee did not file any registered instrument of purchase of new assets i.e, purchase deed before the Assessing Officer during the assessment proceedings."*

*2 "On the facts and circumstances of the case, the Ld. CII(A) erred in deleting addition Rs. 4,78,80,000/- as against the disallowance of deduction under section 54 of the Income Tax Act, 1961 without appreciating the fact that CBDT's circular no. 471 dated 15.10.1986 and 672 dated 16.12.1993 are not similar in the instant case.*

*3 "On the facts and circumstances of the case, the Ld. CIT(A) erred in deleting addition Rs 4,78,80,000/- as against the disallowance of deduction under section 54 of the income Tax Act, 1961 without appreciating the fact that the case of CIT vs Sambandam Uday Kumar, (2012) 345 ITR 389, the Hon'ble Karnataka HC are not similar issue in the instant case"*

*4. "On the facts and circumstances of the case, the Ld. CIT(A) erred in deleting addition Rs.29,45,765/- as against the addition made on rental income received from the tenant i.e. Hindustan Unilever Ltd(HUL), NSE and Varun Beverages Ltd without appreciating the fact that the assessee has shown only 25% of the total income received from the tenant, as the assessee actual share in the rental income should have been 50% of the total rental income as per his ownership in the properties."*

*5. "On the facts and circumstances of the case, the Ld. CIT (A) not appreciating the fact that the assessee himself admitted during the assessment proceedings that the property bearing shop no. 103, 105, 108, 109, 110A which was co-owned by Mr. Ashish Mehdiratta and Mra Tripti Mehdiratta was let out to Hindustan Unilever Ltd (HUL), NSE and Varun Beverages Ltd."*

2. The assessee is an individual and is having rental income from various parties by letting out of property. The assessee is also having income from partnership firm by way of interest income, etc. The assessee filed the return of income for AY 2021-22 on 09.02.2022 declaring a total income of Rs. 74,41,470/-. During the year under consideration, the assessee has sold a property and the capital gain arising on the said transaction amounted to Rs. 4,98,66,784/-. The

assessee in the return of income has claimed exemption u/s. 54 towards investment in another immovable property being a residential house in Lucknow to the tune of Rs. 4,78,80,000/-. The Assessing Officer (AO) called on the assessee to furnish the details pertaining to the property towards which the assessee has claimed the exemption u/s. 54. Based on a details furnished by the assessee, the AO held that the new property was not registered within the period as stipulated u/s. 54 and accordingly denied the benefit. The AO also noticed that the assessee has offered only 25% of rental income from property which is co-owned by the assessee with his wife. The AO was of the view that the assessee should have offered 50% of the rental income for the reason that the assessee has claimed 50% of the interest on the loan borrowed as deduction. Accordingly the AO made an addition towards 25% of the rental income. The CIT(A) held both the issues in favour of the assessee after verifying the merits of the issue. The revenue is in appeal before us against the order of the CIT(A).

3. The Id. DR submitted that the assessee has claimed the exemption u/s. 54 based on the allotment letter of the new property and that the assessee did not furnish the registered purchase deed of the new property. The Id. DR further submitted that the registration of the new property would be the conclusive evidence for the purpose of section 54 and therefore the CIT(A) has erred in allowing the claim based on allotment letter. The Id. DR also submitted that there is a violation of Rule 46A of the Income Tax Rules, 19621 since the CIT(A) has admitted certain additional documents filed by the assessee in order to give relief without calling for a remand report from the AO. With regard to the addition made towards rental income the Id. DR supported the order of the AO stating that actual ownership of the assessee has been correctly assessed by the AO based on his claim of interest on loan.

4. The ld. AR on the other hand submitted that section 54 does not provide for any mandatory conditions with regard to the registration of the property and the CIT(A) has correctly allow the claim after considering the fact that the assessee has invested the entire consideration in the new property. The ld. AR relied on the order of the Co-ordinate Bench in the case of *Minaxi Mahesh Pawani vs. ITO (IT)* [2024] 164 taxmann.com 255 (Mum. Trib.) to submit that the allotment letter can be considered as the evidence for assessee having purchase of property and therefore the assessee is entitled for exemption u/s. 54 based on the allotment letter. With regard to the addition made towards rental income the ld. AR argued that the CIT(A) has verified the documentary evidences in substantiating the fact that the assessee owns only 25% of the property and accordingly given relief. Therefore the ld. AR submitted that there is no infirmity in the findings of the CIT(A).

5. We heard the parties and perused the material on record. The assessee during the year has sold a house property and claimed deduction u/s.54 towards investment made in the new property. The conditions for claiming deduction u/s.54 is that the assessee should have within a period of one year before or two years after the date on which the transfer took place purchased, or should have within a period of three years after that date constructed a new residential house. The section also provides that if the amount is not invested within the above said period then the amount "not appropriated or not utilised" then the amount not so "utilised" would be chargeable u/s.45. From the plain reading of the provisions of section 54 it is clear that for the purpose claiming the deduction the amount should have utilised for the purpose of purchase or construction of new property within the stipulated time. From the perusal of the CIT(A), we notice that the assessee has

submitted the details of payments made to the builder, the letter received from the builder and the bank statements evidencing the payments etc., before the CIT(A). The CIT(A) after perusing the details and by placing reliance on CBDT circular and judicial precedence has given relief to the assessee. The reason for the AO to deny the deduction u/s.54 is that the assessee has not registered the property within the stipulated time which has been reversed by the CIT(A) on the ground that if after making the entire payment, merely because a registered sale deed had not been executed and registered in favour of the assessee before the period stipulated, he cannot be denied the benefit of s. 54 of the Act. In this regard we notice that the coordinate bench in the case of the Co-ordinate Bench in the case of Minaxi Mahesh Pawani (supra) has considered a similar issue where it has been held that =

*“14. In the light of above stated facts and narrations, let us understand the effect of letter of allotment issued by the builder to the assessee for the identified flat in the building project. Consequence of issuance of letter of allotment for the flat signifies a contractual arrangement between the assessee and the builder by which a right in personam is created in favour of the assessee. When such a right is created in favour of the assessee, the builder is restrained from selling the said identified flat to someone else because the assessee in whose favour the right in personam is created, has a legitimate right to enforce specific performance in terms of the said letter of allotment, if the builder, for some reason is not executing and complying with the terms stated therein. Thus, by virtue of the letter of allotment, some right to own a property is given by the builder to the assessee. In real life, there are events when a person, even after holding such a letter of allotment issued by the builder, tries to sell same property to another person which would not be in accordance with law because once such a contractual arrangement has been agreed upon, the said person gets the right to get the property transferred in his favour by filing a suit for specific performance. Therefore, it can be said that in respect of the said property, though yet to be constructed but identified and allotted to the assessee, some right has been extinguished at the end of the builder and some right had been created in favour of the assessee. A right in personam had been created in favour of the assessee in whose favour the letter of allotment had been issued and who has paid 20% of the total agreed consideration as advance. Further, all other payments on various milestones identified in the said letter have been duly met by the assessee on subsequent dates, duly acknowledged by the builder. Undoubtedly, such contractual right arising out of the letter of allotment can be surrendered or*

*neutralised by the parties through subsequent contract or conduct but such is not a case in hand before us.*

*15. For the aforesaid understanding, we gainfully rely on the decision of Hon'ble Supreme Court in the case of Sanjeev Lal v. CIT [2014] 46 taxmann.com 300/225 Taxman 239/365 ITR 389 wherein similar observations and findings were given by the Hon'ble Apex Court, though in the context of agreement to sell. In paragraph 23 of the said decision, it is held as under:*

*“23. Consequences of execution of the agreement to sell are also very clear and they are to the effect that the appellants could not have sold the property to someone else. In practical life, there are events when a person, even after executing an agreement to sell an immovable property in favour of one person, tries to sell the property to another. In our opinion, such an act would not be in accordance with law because once an agreement to sell is executed in favour of one person, the said person gets a right to get the property transferred in his favour by filing a suit for specific performance and therefore, without hesitation we can say that some right, in respect of the said property, belonging to the appellants had been extinguished and some right had been created in favour of the vendee/transferee, when the agreement to sell and been executed.”*

6. In assessee's case, it is an undisputed fact that the assessee has made utilised the amount of capital gain towards purchase of the new property. From the perusal of records we notice that the assessee has registered the same property towards which the deduction is claimed u/s.54 on 29.06.2024 and this fact has been recorded by the CIT(A). In view these discussion and respectfully following the judicial precedence, we hold that there is no infirmity in the order of the CIT(A). The grounds of the revenue in this regard are dismissed accordingly.

7. With regard to addition made towards rental income, we notice that the assessee has offered the income based on the actual receipt on which tax is deducted at source by the tenants. Further, the assessee is claiming that the properties are co-owned along with assessee's wife, assessee's brother and brother's wife. The CIT(A) has perused the rental agreements and after considering the

Form 26AS has deleted the addition made by the AO. During the course of hearing no new material has been brought on record by the revenue to controvert the findings of CIT(A). Further, the reason for AO to make the addition is that the assessee has not furnished the documents to substantiate 25% ownership and that the assessee has claimed 50% of interest paid on loan against the rental income. In our considered view, the share of ownership is the basis for the share of rental income to be taxed in the hands of the owner which in the present has been established at 25%. The TDS statement in Form 26AS also substantiates the share of rental income in the hands of the assessee. Accordingly we see no reason to interfere with the decision of the CIT(A), in the absence of any new material brought in by revenue to take a different view. The grounds raised by the revenue in this regard are thus dismissed.

8. In result the appeal of the revenue is dismissed.

*Order pronounced in the open court on 13-11-2025.*

**Sd/-**  
**(PAWAN SINGH)**  
**Judicial Member**

*\*SK, Sr. PS*

**Sd/-**  
**(PADMAVATHY S)**  
**Accountant Member**

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**