

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'E' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

ITA No.1519/Del/2025  
Assessment Year: 2021-22

Sh. Kanwar Singh Tanwar, 127, Asola Fatehpur Beri, Delhi	<b>Vs.</b>	DCIT, Circle-19(1), Delhi
<b>PAN: AADPT2288C</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Sh. Parikshit Aggarwal, CA
Department by	Ms. Ankush Kalra, Sr. DR

Date of hearing	13.01.2026
Date of pronouncement	13.01.2026

**ORDER**

**PER SATBEER SINGH GODARA, JM**

This assessee's appeal for assessment year 2021-22, arises against the Commissioner of Income Tax (Appeals)/National Faceless Appeal Centre [in short, the "CIT(A)/NFAC"], Delhi's DIN and order no. ITBA/NFAC/S/250/2024-25/1073771131(1), dated 27.02.2025 involving proceedings under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties. Case file perused.

2. It emerges during the course of hearing that the assessee/appellant raises his sole substantive grievance in the instant appeal challenging both the learned lower authorities' respective findings denying him section 54F deduction of Rs. 6,53,00,317/-; in assessment order dated 26.12.2022 as upheld in the lower appellate discussion; reading as under:

*“The contentions of both the Assessing officer and the appellant assessee resp. have been carefully considered and this Appellate authority has noted the following points:*

- i. *The Assessee is an individual, pensioner, sources of income is from house property , income from other sources and capital gains, filed its return of income for the AY2021-22, declared income of Rs. 6,34,33,580 /- including capital gains of Rs. 3,93,46,352/-. The case is selected for scrutiny under CASS to verify the claim of deduction u/s 54F of the Act.*
- ii. *The Assessee is a pensioner and sources of income is from house property , income from other sources and capital gains, has claimed large deduction/ exemption u/s 54F of the Act of Rs 6,53,00,317/-. Whether the assessee has correctly claimed deduction / exemption in the ITR, needed to be verified.*
- iii. *The AO has issued a notice u/s. 143(2) and 142(1) of the Act and in response to notices u/s. 143(2) and 142(1), the assessee submitted adjournment on 31-8-2022, and in response to notice 142(1) dated 20-10-2022, the assessee submitted before the AO the details of bank accounts and statements, computation of income and requested time 7 days time to submit remaining information on 7-11- 2022. In response to notice, the assessee on 1-12-2022, submitted details of purchase of agricultural land and payments on construction of house and capital gains details and its enclosures. On 7-12-2022 the assessee requested 3 days adjournment and on 12-12-2022 assessee submitted reply containing details of FMV of unlisted shares, capital gains and sale deeds. on 15-12-2022, filed details of expenditure on construction activity, statement on cost of construction , explanatory note on agricultural land. SCN was issued and in response the assessee filed written submission on 19-12-2022, submitted written reply on claim of deduction / exemption u/s. 54F.*
- iv. *The Ld AO during the course of assessment proceedings sent various notices to the appellant assessee and the appellant assessee took part in the assessment proceedings by providing its submissions.*

- v. *After considering the submissions of the appellant assessee, the Ld AO went ahead and made the addition amounting to Rs 6,53,00,317/- with the said claim of deduction u/s 54F of the Act being disallowed.*
- vi. *The appellant assessee in its submissions states that, “...“**The appellant had sold a capital asset from which LTCG of Rs. 10,16,58,537 arose. There is no dispute on this issue. Against this LTCG, appellant claimed deduction of Rs. 6.53 crores on account of purchase of a plot and then construction of residential property thereon. The fact of purchase during the relevant period, construction carried out during the relevant period, source of such investment and all other conditions for qualifying for exemption u/s 54F were fully satisfied, stood accepted by the Ld. AO during assessment and hence, are undisputed issues.**”*
- vii. *The appellant assessee states that, the appellant had sold a capital asset ( ie: shares of a pvt. Ltd. / unlisted company) from which LTCG of Rs. 10,16,58,537/- arose. There is allegedly no dispute on this issue. Against this LTCG, appellant claimed deduction of Rs. 6.53 crores on account of purchase of a plot and then construction of residential property thereon. But, then the contentions of the appellant assessee cannot be considered as the **Assessing officer in its order has clearly stated** that, “the assessee was asked to give details of agricultural land conversion, building plan approvals, copy of construction agreement, payments made under construction of house including TDS made u/s194C. The assessee in response filed reply on 15-12-2022 and failed to submit documents on building plan, conversion of agricultural land, ledger of payments for construction and TDS on the same”. Further, the appellant assessee has not provided the said documents to the Assessing officer and the same have not been provided to this Appellate authority either till date.*
- viii. *The Assessing officer had further mentioned in the assessment order, certain points in its order while disallowing the claim of the appellant assessee and which are reproduced hereunder:*

**“.....i) The assessee has not submitted details/proof of construction of residential house and failed by submitting the building plan, local authority permissions and construction agreement,etc..**

**ii) The assessee submitted construction cost statement and invoices, which relates to expenditure on construction, however only these submissions cannot prove the assessee has build the residential house on said land.**

**iii) Assessee in his reply stated that the eligibility on purchase and construction of residential house as per section 54F,however the assessee failed to give**

**explanation on purchase of agricultural land claim on the same. Further on construction of the residential house, the assessee failed to submit the documentary evidences and failed to prove the construction activity on the said land purchased. During the assessment proceedings, the assessee mainly focussed on claim rather than substantiating his claim with documentary evidences ...”.**

*Thus, it is noted that, the Assessing officer has clearly stated that, the assessee was asked to submit the details/proofs of construction of residential house and failed by submitting the building plan, local authority permissions and construction agreement, etc., but the same had been not provided to the Assessing officer during the whole assessment proceedings and even to this Appellate authority also despite being specifically questioned upon.*

- ix. *Further, fresh hearing notice u/s. 250 of the Income Tax Act, 1961 were issued to the assessee as per the chart mentioned below :-*

**Notice to the assessee Date of hearing Remarks**

01.03.2023		No Reply
16.01.2025	21.01.2025	Adjournment
22.01.2025	27.01.2025	Adjournment
28.01.2025	03.02.2025	Adjournment and only part submissions provided and not relevant proof.
25.02.2025		Certain submissions and new photos, but not the relevant documents and details as asked for by the AO during the assessment proceedings
VC/ Personal Hearing	27.02.2025	VC hearing held at 12:05 hrs

- x. *This Appellate authority has provided various opportunities to the appellant assessee to provide proofs and documentary evidences in support of its contentions, but the appellant assessee did not providesatisfactory / relevant*

evidences to this Appellate authority till date. The assessee asked for adjournments and filed certain details, but not the relevant documents and details as asked for by the AO during the assessment proceedings and thus it is believed that, the appellant is wasting the time of this Appellate authority. Further, despite the hearing opportunity's, a VC/ personal hearing has also been granted to the appellant on 27.02.2025 and no such relevant details were filed by him which may prove the findings of the AO otherwise.

- xi. The appellant assessee provided its submissions dated 25/26.02.2025 in which the assessee has stated that, **“The photographs of the vicinity which provide a clear and visual representation of the factual aspects of the case and substantiates the appellant’s contention that the investment in the new asset satisfies the conditions prescribed under the relevant provisions of the Act, thereby lending further credibility to the claim for exemption”**.

*The appellant assessee has submitted some new photographs of the property just before the VC dated 27.02.2025 (ie: such facts which were never filed before the AO). Thus evidently the said facts were not provided to the Assessing officer during the course of assessment proceedings and as also no application for introducing such additional evidences has been filed by the appellant assessee before this Appellate authority. Further, no such justification or proof has been forwarded by the appellant as to why they were not filed before the AO during the assessment proceedings or what may have prevented him from doing so? Thus, the said new photos are not being considered as credible proof at this stage are thus not accepted.*

- xii. The appellant assessee has also not provided any completion certificate for the said constructed property, no Map of the property constructed is provided to this Appellate authority, it is also pertinent to mention here that, the appellant assessee/AR during the VC/ personal hearing proceedings on 27.02.2025 has accepted the fact that, there is no such completion certificate and map of the property as the property is said to be situated in a village in Delhi. Moreover, no change of land use certificate for construction of a residential house on agricultural land has been provided by the appellant assessee.
- xiii. The appellant assessee has provided only first 3 pages of the purchase deed and hence the purchase deed is incomplete. Even from these 3 pages

the date of purchase of property is not clear, but the stamp paper shows the date as 06.12.2019.

- xiv. The glimpse of the purchase deed so provided by the assessee is reproduced hereunder:

SHRI KANWAR SINGH TANWAR  
 Reg. No. AA/HT/2019  
 Author: 06-887-3588 0413

USHADUTI SEVA (AGRI)

**AGREEMENT TO SELL WITH POSSESSION FOR**  
**CONSIDERATION RS. 1,45,00,000/-**

1. Type of Deed				: Agreement to Sell
2. Name of Colony/Locality				: Village Asola, Tehsil Saket, New Delhi
3. Type of Property				: Agricultural
4. Valuation as per Circle Rates				
	<b>Circle Rate</b>	<b>Per Biswas</b>	<b>Land Area in Biswas</b>	
a.	53,00,000 / 96	X	40	= Rs. 22,08,500/- Approx.
5. (a) Stamp Duty				: Rs. 4,35,000/-
(b) Corporation Tax				: Rs. 4,35,000/-
(c) Total Stamps				: Rs. 8,70,000/-

-1- 10.5.20



Sunder Singh  
 Tejinder Singh

- xv. From the aforesaid Purchase deed it is noted that, the appellant assessee has purchased 40 'biswas' of agricultural land, which when converted into sq. yards is equal to 6000 sq. yards approx, But the appellant assessee has not provided any proof to show as to how much of this agricultural land has been utilized for the purpose of construction of the house by the appellant assessee and whereas the full value of the whole of said purchased land has been considered for claiming the deduction u/s 54F of the Act against the gains made.
- xvi. The Assessing officer in its Assessment order has stated that, "The assessee has sold unlisted shares and arrived long term capital gain of Rs 10,16,58,537/- , out of the above capital gain an amount of Rs 6,53,00,317/- was claimed as a deduction u/s 54F...", but the appellant assessee has not provided any documentary evidences regarding the shares which were sold by the appellant assessee and receipt of such money. Thus, the source of money towards the said purchase of agricultural land and construction of house over it amounting to Rs 6,53,00,317/- has not been proved /provided by the appellant assessee as such. Whereas, the onus to prove the complete facts of the case lies with the appellant assessee and whereas he has failed to do so. Merely by relying on certain judicial precedents( & which are not having similar facts), the appellant cannot

claim a deduction (and which is a special provision), the appellant needs to prove the facts of his case beyond doubts and which he fails to do.

xvii. It is noted from the publicly available documents/ affidavits from the site of the CEO, UP that, the appellant assessee has also filed an affidavit on oath/ certificate of his Assets and liabilities with Election Commission of India while contesting the elections for the MP seat during the LS elections 2024. The same is publicly available on the Election Commission of India website and is thus a public document. From the said details submitted by the assessee and available on the Election Commission website, this Appellate authority has noted that, the appellant assessee is already having 02 houses before purchasing this agricultural land in question and constructing a house over it for which the assessee has claimed the said deduction u/s 54F of the Act for this AY. The relevant portion of the affidavit / certificate is reproduced hereunder for reference :

प्ररूप 26  
(नियम 4के देखिए)

09- अमरोहा

(निर्वाचन क्षेत्र का नाम)

..... (सदन का नाम) के निर्वाचन के लिए रिटर्निंग आफिसर के समक्ष अभ्यर्थी द्वारा नाम-निर्देशन पत्र के साथ प्रस्तुत किया जाने वाला शपथ पत्र

भाग-क

मैं, मोहन सिंह तन्क पुत्र/पुत्री दुर्गा चतुर्वेद 32 झमकपुरी, शाकपाल-गौड़गा तहसील, जिला मिर्जापुर आयु 43 वर्ष, जो श्री का/की निवासी हूँ, और उपरोक्त निर्वाचन के लिए अभ्यर्थी हूँ, सत्यनिष्ठा से प्रतिज्ञा करता हूँ/करती हूँ, शपथ पर निम्नलिखित कथन करता हूँ/करती हूँ:-

- (1) मैं भा.ली.प्र.न.रा.पौ. ("राजनीतिक दल का नाम) द्वारा खड़ा किया गया अभ्यर्थी/एक स्वतंत्र अभ्यर्थी के रूप में लड़ रहा हूँ।  
("जो लागू न हो उसे काट दें।")
- (2) मेरा नाम 39 दगैरा बिचान रोडा (पं. 9) निर्वाचन-क्षेत्र और राज्य का नाम) में भाग सं. 353 के क्रम सं. 432 पर प्रविष्ट है।
- (3) मेरा/मेरे 98/00/12348 संपत्ति दूरभाष संख्या/संख्याएं हैं/हैं और ksd.mptanwar48@gmail.com मेरा ईमेल पता (यदि कोई हो) है तथा मेरा/मेरे सोशल मीडिया खाता/खाते (यदि कोई हो) निम्नलिखित हैं/हैं।  
(i) Tanaka - @ksdhanwarmp @whatsapp - 9810012348  
(ii) tanaka book - Ch Kanwar Singh Hanwar  
(iii) tanaka gram - @ksdhanwarmp
- (4) संपत्ति खाता संख्या (पैन) और आय-कर विवरणी फाइल करने की प्राप्ति तिथि:  
क्र. सं. नाम पीएन (स्साई खाता संख्या) वह वित्तीय वर्ष जिसके लिए अंतिम आयकर विवरणी फाइल की गई है। पिछले पांच वित्तीय वर्षों (31 मार्च को) के लिए आयकर विवरणी में दर्शाए गए कुल आय (रुपय में)

क्र. सं.	नाम	पीएन (स्साई खाता संख्या)	वह वित्तीय वर्ष जिसके लिए अंतिम आयकर विवरणी फाइल की गई है।	पिछले पांच वित्तीय वर्षों (31 मार्च को) के लिए आयकर विवरणी में दर्शाए गए कुल आय (रुपय में)
1.	स्वयं	AAJPT2288C	2022-23	(i) 57,46,70,59.
			2021-22	(ii) 5,90,53,33.
			2020-21	(iii) 6,36,33,58

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*Handwritten Signature*

(IV) House (including Apartments)						
House, Khasra no 239,273 village Asola, New-Delhi Area - 1 Bigha 6 Biswas	19/02/1997	NIL	NIL	NIL	(Book Value 2,70,000) (construction cost 8,25,000) (Market Value 5,56,50,000)	
Flat-24, venture lofts, 15 High Street, Purley	22/06/2019	12,361,273	NIL	20,000,000	(Book Value 1,23,61,273) (Market Value 2,00,00,000)	

xviii. It is clear from the above said publicly document ( an Affidavit on oath) that, these above two houses have been purchased by the appellant on 19/02/1997 & 22/06/2019. But as per the provisions of section 54F of the Act, the deduction u/s. 54F of the Act is not available to an individual if he owns more than one house other than the house property purchased or constructed for which deduction u/s 54F of the Income Tax Act, 1961 is being claimed during the AY.

xix. The provisions of section 54F are reproduced hereunder for reference:

**“...54F.** (1) Subject to the provisions of sub-section (4), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of any long-term capital asset, not being a residential house (hereafter in this section referred to as the original asset), and the assessee has, within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, one residential house in India (hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

- (a) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under [section 45](#) ;
- (b) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under [section 45](#):

**Provided that nothing contained in this sub-section shall apply where—**

**(a) the assessee,—**

- (i) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or**

(ii) purchases any residential house, other than the new asset, within a period of one year after the date of transfer of the original asset; or

(iii) constructs any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset; and

(b) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head "Income from house property":....".

xx. Further, the income / gain that, arose to the appellant on selling unlisted shares and thereafter arriving at a long term capital gain of Rs 10,16,58,537/-, out of the said capital gain an amount of Rs 6,53,00,317/- was claimed as a deduction u/s 54F of the Act. Such claim of deduction are clearly special claims and are subject to being granted by the AO after he is satisfied that, the claim is fair & proper and supported by valid documentary evidence and facts. However, the appellant has not filed proper & complete documents to support its claim for said deduction during the assessment / appellate proceedings and the facts also show that, the claim is also not legally valid as the appellant already owns 02 houses as declared by him in his Election affidavit/ certificate and the appellant has not been able to prove the facts otherwise w.r.t. the ownership of the said 02 houses. Thus, the findings of the AO are found to be correct in addition to the findings of this Appellate authority.

**In the light of above discussed facts and circumstances at point no.-(i) to (xx) in this case of the appellant assessee, this Appellate authority does not find substance in the contentions of the appellant assessee. The facts of the case show that, the claim of deduction is not only incorrect, but also not legally invalid. Consequently, the addition made by the Assessing officer amounting to Rs 6,53,00,317/- disallowing claim of deduction u/s 54F of the Act is found to be correct and thus UPHOLD. The grounds no.-2&3 are not allowed. Further, the grounds no.-1 & 4 are general and hence not adjudicated upon further.**

**In the result, the appeal is NOT ALLOWED."**

This is what leaves the assessee aggrieved.

3. The Revenue in turn vehemently submits both the learned lower authorities above extracted detailed findings inter alia denying the assessee's section 54F deduction claim for the reason that he had failed to prove his construction even much less a legal one on the plot in question. And that the CIT(A) has further found him to have declared more than the specified number of the residential house(s) in the affidavit filed before the Election Commission.

4. All these Revenue's vehement contentions failed to evoke our concurrence. We notice from a perusal of the case records that the assessee has attached the purchase deed (pages 42 to 44) of the immovable property in question followed by all the relevant bills of construction and other labour expenses (pages 294 to 297), copy of invoices of property tax issued by the municipal corporation thereby treating the property in question as a residential one (page 298) and electricity connections/consumptions details to name a few clinching supportive documents. So far as the assessee's affidavit filed before the Election Commission is concerned, he appears to have declared only single residential property "Flat No. 24, Venture Lofts, 15 high street, Purley, where as his wife/spouse

had disclosed house/khasra no. 239, 273, village Asola, New Delhi in her name. The learned CIT(A) appears to have included the assessee's wife declaration in his name which has gone unrebutted from the Revenue side. We thus conclude in this factual backdrop that the assessee is very much entitled for claiming the impugned section 54F deduction which is hereby allowed in very terms. Both the learned lower authorities' respective impugned findings are reversed therefore.

5. This assessee's appeal is allowed.

***Order pronounced in the open court on 13<sup>th</sup> January, 2026***

***Sd/-***  
**(AMITABH SHUKLA)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

Dated: 27<sup>th</sup> February, 2026.

RK/-

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi