

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

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
And
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**ITA No.1254/Del/2019
Assessment Years: 2015-16**

Smt. Payal Bansal, House No.40, Road No.6, East Punajbi Bagh, New Delhi-110026	Vs	Income Tax Officer, Ward-41(5), Room No.1911, E-2 Block, Civic Centre, New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN No.AJAPB4507G		

Assessee by	Shri Salil Kapoor, Adv. Mr. Shivam Yadav, Adv.
Revenue by	Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing	19.02.2026
Date of Pronouncement	13.03.2026

ORDER

PER NAVEEN CHANDRA [A. M]:

The above captioned appeal is preferred by the assessee against the order dated 18.12.2018, passed by Learned Commissioner of Income Tax(Appeals)-14, New Delhi (hereinafter referred to as 'ld. CIT(A)'), under section 250 of the Income Tax Act, 1961 [hereinafter referred to as, "Act"] for Assessment Year 2015-16. The assessment order in this appeal is passed by the Assessing Officer [for short, AO] under section 143(3) of the Act.

2. The assessee has raised following grounds of appeal:-
1. That assessment order passed u/s 143(3) of the Income Tax Act, 1961 (hereinafter as "the Act") dated 26.12.2017 and the disallowances/additions made therein by the Assessing Officer (hereinafter as "A.O.") and as upheld by the Commissioner of Income Tax Appeals (hereinafter as "CIT(Appeals)") are illegal, bad in law and without jurisdiction.
 2. That, in view of the facts and circumstances of the case, CIT(Appeals) has erred on facts and in law in upholding the disallowance of Rs.1,65,22,010/- made by the Assessing Officer u/s 54 without correctly appreciating the transaction undertaken by the Appellant.
 3. That, in view of the facts and circumstances of the case, CIT (Appeals) has erred on facts and in law in not appreciating that the disallowance made is unjust, unlawful, without jurisdiction and is also highly excessive. The CIT (Appeals) as well as the AO have wrongly interpreted the provisions of section 54.
 4. That, in view of the facts and circumstances of the case, CIT (Appeals) has erred on facts and in law in upholding the disallowance amounting to Rs.1,34,45,100/- without appreciating that the Appellant had not made investment in "two" residential houses but the same was made in only one residential property having two floors.
 5. That, in view of the facts and Rs. 9,20,732/- circumstances of the case, CIT (Appeals) has erred on facts and in law in upholding the disallowance amounting to 30,69,108/- without appreciating that the said amount incurred towards construction/investment in the residential house is allowable as per Section 54 of the Act.
 6. That, in view of the facts and circumstances of the case, CIT (Appeals) has erred on facts and in law in not affording a sufficient opportunity to the Appellant to file further documents.
 7. That the explanations given, evidence produced and material placed and made available on record have not been properly considered and judicially interpreted and the same do not justify the addition made.
 8. That the additions made are based on mere surmises and conjunctures and the same cannot be justified by any material on record and against the principle of natural of justice.
 9. The Appellant craves leave to add, amend, alter and/or delete any of the above grounds of appeal at or before the time of hearing.

3. Brief facts of the case are that the assessee filed the return of Income for the assessment year 2015-16 on 28-08-2015 declaring total Income of Rs. 8,16,200/-. Thereafter assessee filed a revised return on 07-09-2015 declaring total income of Rs.8,16,200/-. The total income of the assessee constitutes Income from LTCG and Income from Other Sources. The case was selected under limited scrutiny through CASS and notice under section 143(2) of the Income Tax Act was issued and duly served upon the assessee.

4. In the course of assessment proceedings, the AO found that during the year, assessee had sold its undivided half share in one house property bearing No, 13/26, East Punjabi Bagh, New Delhi-110026 for total consideration of Rs.3,82,25,000/- The capital gains of Rs. 3,42,17,110/- arising from sale of such property, was invested in two separate house properties namely 40/6, Ground Floor, East Punjabi Bagh, New Delhi-110026 (Rs.1,43,45,100/-) and 40/6, First Floor, East Punjabi Bagh, New Delhi-110026 (Rs.1,34,45,100) to claim benefit u/s 54 of the Act. Thereafter the assessee demolished the said property and reconstructed the same. The cost of construction amounted to Rs.30,82,891/- which was also claimed as deduction under section 54 of the Act. The remaining amount of Rs.33,50,000/- was invested in capital gain scheme account in view of provisions of Sec 54 of the

Income Tax Act. The AO held that investment was made in two house hence he restricted the benefit of deduction u/s 54 of the Act to only one house and denied on the other. The AO also denied the cost of construction of the purchased unit for deduction u/s 54. The CIT(A) while upholding the order of the AO on denial of deduction on the other residential house however, allowed 50% benefit on cost of construction for the purpose of computing the capital gain.

5. Aggrieved the assessee is before us.

6. Before us, the ld. counsel for the assessee stated that for AY 2015-16, deduction u/s 54 was granted to the co-owner Manju Bansal of the same property.

7. Per contra the ld DR relied on the orders of the AO/CIT(A).

8. We have heard the rival submissions and have perused the relevant material on record. Brief facts of the instant appeal is part denial of deduction against long term capital gain u/s 54 of the Act from sale of residential house at East Punjabi Bagh Delhi. The Ld AO considered the investment in Ground and 1st Floor as two separate "residential house" instead of "a residential house" as provided in section 54 of the Act and restricted deduction u/s 54 only for ground floor.

9. The issue of "one residential house" as against "a residential house" has been matter of debate which has now been settled by the

hon'ble Delhi High Court. The Hon'ble Delhi Court in the case of **Lata Goel** in ITA 127/225 vide its order dated 30.04.2025, referring its own decision in the case of **CIT Vs. Gita Duggal** 357 ITR 153, which was affirmed by hon'ble Supreme Court in 228 Taxmann.com 62, had held that multiple residential units may be construed as a single residential house for the purposes of exemption u/s 54F of the Act and that the term 'a residential house' can be construed as 'one residential house'. It would be pertinent to reproduce the relevant portion of the judgment of the Hon'ble Delhi Court in the case of **Lata Goel** (supra) which is as under:

22. It is also relevant to refer to the decision of the coordinate bench of the court in Commissioner of Income-tax v. Gita Duggal: 2013 SCC OnLineDel 752 where this court has held as under: -

"11. There could also be another angle. Section 54/54F uses the expression "a residential house". The expression used is not "a residential unit". This is a new concept introduced by the Assessing Officer into the section. Section 54/54F requires the assessee to acquire a "residential house" and so long as the assessee acquires a building, which may be constructed, for the sake of convenience, in such a manner as to consist of several units which can, if the need arises, be conveniently and independently used as an independent residence, the requirement of the section should be taken to have been satisfied. There is nothing in these sections which require

the residential house to be constructed in a particular manner. The only requirement is that it should be for the residential use and not for commercial use. If there is nothing in the section which requires that the residential house should be built in a particular manner, it seems to us that the Income-tax authorities cannot insist upon that requirement. A person may construct a house according to his plans and requirements. Most of the houses are constructed according to the needs and requirements and even compulsions. For instance, a person may construct a residential house in such a manner that he may use the ground floor for his own residence and let out the first floor having an independent entry so that his income is augmented. It is quite common to find such arrangements, particularly postretirement. One may build a house consisting of four bedrooms (all in the same or different floors) in such a manner that an independent residential unit consisting of two or three bedrooms may be carved out with an independent entrance so that it can be let out. He may even arrange for his children and family to stay there, so that they are nearby, an arrangement which can be mutually supportive. He may construct his residence in such a manner that in case of a future need he may be able to dispose of a part thereof as an independent house. There may be several such considerations for a person while constructing a residential house. We are therefore, unable to see how or why the physical structuring of the new residential house, whether it is lateral or vertical,

should come in the way of considering the building as a residential house. We do not think that the fact that the residential house consists of several independent units can be permitted to act as an impediment to the allowance of the deduction under section 54/54F. It is neither expressly nor by necessary implication prohibited."

Emphasis supplied

23. This court in *Mrs. Kamla Ajmera v. Pr. Commissioner of Income Tax*: Neutral Citation No.: 2024:DHC:9342-DB, referred to the decision in *CIT v. Geeta Duggal*, (supra), and held that in certain circumstances, multiple residential units may be considered as a single residential house for the purposes of exemption under Section 54F of the Act. The court observed as follows: -

"39. This assumes significance in the backdrop of our opinion that the word 'a' used in Section 54F of the Act denotes one singular residence, along with the caveat that in case the floors or houses are so constructed as to be used as one singular unit or capable of being used as such, they may fall within the definition of a residential house."

24. The Madras High Court also held a similar view in *Commissioner of Income-tax v. Gumanmal Jain*: 2017 SCC OnLine Mad 13653.

25. The aforesaid decisions were rendered in the context of construing an expression used whether the new asset purchased is 'a residential house' in Section 54 and 54F of the Act. However, the said decisions would be equally applicable for construing the

term 'one residential house' as used in clause (i) of the proviso to Section 54F of the Act. We say so because in Pawan Arya v. Commissioner of Income Tax (supra) as well as in Commissioner of Income-tax v. Gita Duggal: (supra) and Mrs Kamla Ajmera v. Pr. Commissioner of Income Tax (supra), the term 'a residential house' has been construed to mean 'one residential house'. We find it difficult to accept that, in the given facts, different floors of a house are required to be considered as multiple residential houses.

26. In view of the above, we find no infirmity with the decision of the learned ITAT in holding that the Assessee could not be denied the deduction under Section 54F of the Act on the ground that she holds more than one residential unit.

10. Considering the facts of the case in totality, in light of the decision of the Hon'ble Delhi Court [supra] where the term 'a residential house' has been construed to mean 'one residential house' and that different floors of the house do not mean multiple houses, we hold that "one residential house" in section 54 of the Act would encompass within its fold, ground and the 1st floor of the same building. Accordingly, we set aside the findings of the ld. CIT(A) and direct the Assessing Officer to allow exemption u/s 54 of the Act on both the ground and First floor of the residential house as claimed by the assessee. We are further of the considered view that cost incurred on construction of the residential House is allowable for deduction u/s 54 of the Act. Grounds raised by the assessee are allowed.

11. In the result, the appeal of the assessee in ITA No.1254/Del/2019

is allowed.

Order was pronounced in the open court on 13th March, 2026.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 13.03.2026

Shekhar

Copy forwarded to:

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

Sd/-
(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Asstt. Registrar, ITAT, New Delhi