

**In the Income-Tax Appellate Tribunal,
Agra Bench, Agra**

**Before : Shri Laliet Kumar, Judicial Member And
Dr. Mitha Lal Meena, Accountant Member**

**ITA No. 786/Agr/2018
Assessment year: 2015-16**

Mr. Dinesh Chandra Dutta Bhargava C/o N.A. Siddiqi, Advocate, 7, Anon House, Civil Lines, Aligarh. PAN: ABMPB3271D (Appellant)	vs.	DCIT, Circle 4(1)(1), Aligarh. (Respondent)
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Appellant by	Sh. I.A. Siddiqi, Advocate
Respondent by	Smt. Sita Srivastava, Sr. DR

Date of Hearing	05.03.2021
Date of Pronouncement	08.03.2021

ORDER

Per Laliet Kumar, J.M.:

This appeal by the assessee for the assessment year 2015-16 is directed against the order dated 18.09.2018 passed by Id. CIT(A), Aligarh, challenging the impugned order on the ground that the Id. CIT(A) while sustaining the disallowance of assessee's claim made u/s. 54/54F of the Act by Assessing Officer on the ground that the Long term capital gains earned by the assessee was invested in purchase of two houses/flats instead of one residential unit.

2. Brief facts of the case are that the assessee sold a residential house in Agra on 21.04.2014 for Rs.1,20,00,000/- having the value for the purpose of stamps at

Rs.1,22,78,000/-. Out of the long term capital gains, the assessee invested Rs.15,00,000/- in specified bonds u/s. 54EC and also invested a sum of Rs.43,85,000/- in purchase of a flat in JNC Princes Park, Khasra No. 519, Mohiuddinpur, Kanawani, Noida and Rs. 48,90,000/- in another flat in Desire Residency, Khasra No. 520, Mohiuddinpur, Kanawani, Noida. The Assessing Officer observed that deduction u/s. 54 could be allowed only in respect of one flat.

3. The assessee preferred appeal before the Id. CIT(A) who sustained the disallowance on the premise that the legal position has changed w.e.f. 01.04.2015 and in section 54, phrase “a residential house” has been substituted by “one residential house in India”. Aggrieved by the impugned order, the assessee is in appeal before us.

4. The Id. Counsel for the assessee submitted that the Id. CIT(A) while sustaining the disallowance failed to appreciate that the changed legal position in section 54 by Finance Act (Bill No. 2) 2014 was not applicable in the year under consideration, as the amendment was made effective from 01.04.2015 with prospective effect. The two units purchased by assessee are adjacent to each other, as is evident by Khasra No. 519 and 520 and therefore, the same should be considered for deduction u/s. 54 as per law applicable in the year under consideration.

5. Per contra, the Id. DR relying upon the impugned order submitted that both the units of residential flats purchased by the assessee situate in different societies

and the legislative intent has never been to invest the capital gains in multiple residential houses. Therefore, the impugned order does not call for any interference.

6. We have heard the rival contentions and have gone through the material available on record. The only question to be adjudicated in the instant case is whether the assessee is entitled for deduction u/s. 54/54F of the Act in the attending circumstances of the case or not and whether the changed legal position of section 54, as noted by Id. CIT(A), is applicable in the assessment year under consideration or not. It is not in dispute that the amendment in section 54 was made w.e.f. 01.04.2015, which does not fall within the assessment year under consideration. There is nothing on record from the side of Revenue to justify that the said amendment was made applicable with retrospective effect. In such circumstances. As regards the disallowance on the premise of investment in two residential flats, we find that in the case of V.R. Karpaam (Smt.) v. ITO (2013) 143 ITD 126 (Chennai)(Trib.), Tribunal held that 'a residential house' in the context could not be construed as a singular and the meaning given in section 54 would apply to section 54F also. New asset defined in section 54F as 'a residential house' has to be understood in plural. It is not necessary that all residential units should be single door number allotted. In this decision, the Tribunal, following the ratio in CIT v. K.G. Rukminiamma (2011) 331 ITR 211 (Karn.)(HC), allowed the claim of assessee. In view of these decisions, we find no justification to discard the claim

made by the assessee u/s. 54 of the Act in the present case. We are, therefore, not inclined to sustain the impugned order.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 08/03/2021.

Sd/-
(Dr. Mitha Lal Meena)
Accountant Member

Sd/-
(Laliet Kumar)
Judicial member

Dated: March, 2021
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