IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'D', NEW DELHI

Before Sh. Saktijit Dey, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 2023/Del/2017 : Asstt. Year : 2012-13

Karamvir, C/o Kunal Aggarwal & Associates, 226,JMD Megapolis, 2nd Floor, Sector-48, Sohna Road, Gurgaon, Haryana-122001	Vs	Income Tax Officer, Ward-2(2), Gurgaon, Haryana
(APPELLANT)		(RESPONDENT)
PAN No. AEMPV4835Q		

Assessee by : None
Revenue by : Sh. Bhagwati Charan, Sr. DR

Date of Hearing: 30.06.2022		**Date of Pronouncement: 06.07.2022**

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of ld. CIT(A)-1, Gurgaon dated 02.02.2017.

2. Brief facts of the case are that the assessee filed return on 31.05.2013 declaring an income of s.8,72,370/-. The case was assessed computing the capital gains at Rs.1,07,50,047/-. The assessee claimed deduction u/s 54B of the Income Tax Act, 1961 of Rs.65,15,210/-. There is no dispute that the assessee is eligible for deduction u/s 54B in principle. The assessee has purchased four properties out of which two of the properties were purchased on 24.01.2012 and on 16.08.2012 amounting to Rs.35,83,277/- and Rs.14,63,929/- in the name of the assessee's wife.

3. The issue before us is to adjudicate whether the properties purchased by the assessee in the name of the assessee's wife are eligible for deduction u/s 54B or not.

4. The Hon'ble High Court of Karnataka in the case of CIT vs. K. Ramachandra Rao (277 CTR 522) and in the case of P.R. Seshadri (329 ITA No.768/Bang/2019 ITR 377) wherein the claim of the assessee has been allowed.

5. The Hon'ble Supreme Court in the case of Commissioner of Customs (Imports) vs. Dilip Kumar, Civil Appeal No.3327/2007 dated 30.7.2018 wherein it was held that while giving benefit to the assessee, the provision needs to be interpreted strictly and in case there is ambiguity, the benefit of such ambiguity cannot be claimed by the assessee and it must be interpreted in favour of the revenue.

6. The Hon'ble Karnataka High Court in the case of Antony Parakal Kurian Vs. ACIT [2022] 138 taxmann.com 440 held that the phrase 'owns' used by the proviso (a)(i) to section 54F(1) plays a significant role. What is relevant is the assessee should not own more than one residential house, other than the new asset, on the date of transfer of the original asset. The Hon'ble Court held that Section 54F encourages investment in a residential house. For qualifying for the exemption under section 54F, what is mandatory is the investment to be made in a residential house in the name of the assessee only. Section 54F shouldn't be construed liberally to give wide and liberal interpretation to the word 'assessee' so as to include the assessee's legal heirs as well.

7. Similarly, the Division Bench of this Court in Jai Narayan vs. ITO [2008] 306 ITR 335 held as under:

"10. In interpreting the words contained in a statute, the court has not only to look at the words but also to look at the context and the object of such words relating to such matter and interpret the meaning intended to be conveyed by the use of the words under the circumstances. The word "assessee" occurring in section 54B must be interpreted in such a manner as to accord with the context and subject of its usage. A reading of section 54B of the Act nowhere suggests that the Legislature intended to advance the benefit of the said section to an assessee who purchased the agricultural land even in the name of a third person. Wherever the Legislature intended it to be so, it had specifically provided under the provision. The term "assessee" is qualified by the expression "purchased any other land for being used for agricultural purposes", which necessarily means that the new asset which is purchased has to be in the name of the assessee himself for seeking exemption under section 54B of the Act. The purchase of agricultural land by the assessee in his son or grandson's name, therefore, cannot be held entitled to exemption under section 54B of the Act."

8. Further, the Hon'ble Jurisdictional High Court of Punjab & Haryana in the case of CIT Vs. Dinesh Verma [2015] 60 taxmann.com 461 held that,

"17. The Tribunal observed that it is settled now that an assessee can purchase a new asset or part thereof in the name of his wife and that there was sufficient justification for the same on considerations, such as, stamp duty rebate, social considerations, security for ladies. The Tribunal noted that as long as the funds are invested the respondent's exemption cannot be denied.

18. It is difficult to accept this view. Section 54B requires the assessee to purchase the property from out of the sale consideration

of the capital asset. It does not entitle the assessee to the benefit conferred therein if the subsequent property is purchased by a person other than the assessee including a close relative even such as his wife or children. If the legislature intended conferring such a benefit, it would have provided for the same expressly. Indeed, an assessee can purchase an asset or a part thereof in the name of his wife but he would not be entitled then to the benefit of Section 54B. Moreover, it is not the case of the assessee that he purchased the asset benami in the name of his wife. We have proceeded on the basis that his wife invested the amount of Rs. 16,84,700/- herself."

9. Hence, keeping in view the facts of the case, provisions of the Act and the legal proposition, we decline to interfere with the decision of the ld. CIT(A) in disallowing the claim of deduction u/s 54B with regard to the agricultural land purchased on 24.01.2012 and on 16.08.2012 amounting to Rs.35,83,277/- and Rs.14,63,929/-.

10. In the result, the appeal of the assessee is dismissed.

Order Pronounced in the Open Court on 06/07/2022.

Sd/-	Sd/-
(Saktijit Dey)	**(Dr. B. R. R. Kumar)**
Judicial Member	**Accountant Member**

Dated: 06/07/2022

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR