

आयकर अपीलीय अधिकरण
दिल्ली पीठ "ए", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आअसं.1639/दिल्ली/2019(नि.व. 2015-16)
ITA No. 1639/DEL/2019 (A.Y.2015-16)

Ashok Kumar,
H.No. M-231, South City-1, Gurgaon,
Haryana 122001

PAN: ALYPK-0003-G

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer, Ward 1(5),
Gurgaon, Haryana

..... प्रतिवादी/Respondent

Assessee by : None

Department by: Shri Ashish Tripathi, Sr. DR

सुनवाई की तिथि/ Date of hearing : 12/03/2025

घोषणा की तिथि/ Date of pronouncement: 11/06/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-1, Gurgaon (hereinafter referred to as 'the CIT(A)') dated 18.12.2018, for assessment year 2015-16.

2. A perusal of appeal file shows that the appeal was filed in the year 2019 and thereafter, the appeal was listed for hearing on fifteen dates. On most of the dates fixed for hearing none appeared to represent the assessee and on some dates wherever representative of the assessee appeared, adjournment was sought. It seems

that the assessee is not keen to pursue his appeal, therefore, the appeal is taken up for hearing with the assistance of Id. DR and the material available on record.

3. Brief facts of the case as emanating from records/statements of facts furnished by assessee are: The assessee's case was selected for limited scrutiny through CASS with the reason; (i) large deduction claimed u/s. 54F of the Act; and (ii) sale consideration of property in ITR is less than sale consideration reported in Form No. 26 QB. Subsequently, the case of assessee was converted to complete scrutiny with the approval of Principal Commissioner of Income Tax, Gurgaon vide letter dated 16.11.2017. The assessee filed his return of income for impugned assessment year declaring income of Rs.2,70,000/- . In assessment year under appeal, the assessee had sold a commercial property bearing no. 14, Sector-40, Gurgaon for a consideration of Rs.1,23,00,000/- on 05.02.2015. The assessee after availing the benefit of indexed cost of acquisition at Rs.44,42,206/- declared Long Term Capital Gain of Rs.78,57,794/-. The assessee invested Long Term Capital Gain for acquiring a residential property at Unit Bearing No. 54 in Block-H, Ground Floor, Greenwood City, Vill Jharsa, Tehsil & Distt. Gurgaon in the name of his mother Smt. Promila Rani Yadav on 30.06.2015. The assessee claimed the benefit of deduction u/s. 54F of the Income Tax Act, 1961(hereinafter referred to as 'the Act') on Long Term Capital Gain earned by the assessee on sale of commercial property. In assessment proceedings, the Assessing Officer (AO) disallowed assessee's claim of deduction on the ground that for claiming deduction u/s. 54F of the Act, the new asset should have been purchased in the name of the assessee. The AO in support of his view placed reliance on the decision rendered in the case *Jai Naryan vs. ITO, 306 ITR 335 (P&H.)*

3.1. The AO also made addition of Rs.16,45,000/- u/s. 69 of the Act on account of unexplained cash deposits in the bank account of the assessee. The assessee explained

before the AO, that the cash deposits are from earlier bank withdrawals. As per the assessee's contention, the assessee has withdrawn Rs.72,00,000/- from his Union Bank of India account no. 388802010011290 and has thereafter deposited the aforesaid withdrawals to his different bank accounts as under:

Indusind Bank	Rs.25,00,000/-
Yes Bank	Rs.29,00,000/-
RBL Bank	<u>Rs.9,00,000/-</u>
Total	<u>Rs.63,00,000/-</u>

The Assessing Officer partly accepted the explanation furnished by the assessee with regard to cash deposits. The AO added back Rs.16,45,000/- i.e. Rs.8,07,500/- with Indusind Bank Rs.6,97,900/- with Yes Bank and Rs.1,40,000/- with RBL Bank, the cash deposits prior to withdrawal from Union Bank of India. The AO also rejected plea of cash deposits from cash in hand as the gross sales turnover of assessee was Rs.4,50,000/- and after deducting expenses, the assessee offered business income of Rs.2,70,000/-. The AO after rejecting assessee's contention made addition of Rs.16,45,000/- u/s. 69 r.w.s. 115BBE of the Act.

4. Aggrieved by assessment order dated 21.12.2017 passed u/s. 143(3) of the Act, the assessee filed appeal before the CIT(A). The assessee reiterated his submissions before the First Appellate Authority and also explained that an agreement to sell his property was executed on 25.08.2024 and lieu of said sale, the assessee had received cash amount of Rs.16,00,000/-. The said amount was also deposited in different bank accounts on different dates. The assessee but remained unsuccessful, before the First Appellate Authority, hence, present appeal by the assessee.

5. Shri Ashish Tripathi, representing the department vehemently defended the impugned order and prayed for dismissing appeal of the assessee. The Id. DR submits that in so far as rejection assessee's claim of deduction u/s. 54F of the Act is concerned, the Hon'ble Jurisdictional High Court in the case of *Kamal Kant Kamboj vs. ITO*, 84 *taxmann.com* 541, and in the case of *Jai Naryan vs. ITO* (supra) has held that for claiming deduction u/s. 54B of the Act, the new asset has to be purchased in the name of the assessee and not in the name of any family member. In the case of *Kamal Kant Kamboj vs. ITO* (supra), the assessee had purchased agricultural land in the name of his wife and had claimed deduction u/s. 54B of the Act. The provisions of section 54F of the Act are *pari materia* with provisions of section 54B of the Act, hence, same analogy would apply. As regards addition on account of cash deposits, the Id. DR submits that before the AO assessee explained that the cash deposits amounting to Rs.16,45,400/- were out of cash in hand from business receipts and earlier withdrawals from Bank. But in appellate proceedings, the assessee changed his stand and submitted that the cash deposits were from advance received from sale of property. The CIT(A) rejected assessee's claim as the same was unsubstantiated.

6. We have heard the submissions made by Id. DR and have examined the orders of authorities below. The assessee in appeal has raised as many as six grounds. Ground No. 1 to 3 of appeal is with regard to rejection of assessee's claim of deduction u/s. 54F of the Act. The assessee had sold commercial property in his name and thereafter had invested the capital gain on sale of said property for the purchase of residential house in the name of his mother Smt. Promila Rani Yadav. The capital gain was claimed as deduction u/s. 54F of the Act. The AO and the CIT(A) following the decisions rendered by Hon'ble Jurisdictional High Court rejected assessee's claim of deduction u/s. 54F of the Act. The Authorities below have rejected assessee's claim for the reason that since

the assessee has purchased new asset in the name of his mother i.e. in the name of a person other than the assessee, the condition laid down u/s. 54F of the Act for claiming deduction is not satisfied. For claiming deduction u/s. 54F of the Act, the new asset should have been purchased in the name of the assessee. We are live to the fact that there are contrary decisions by non-jurisdictional High Courts, wherein, the Hon'ble High Courts have allowed the benefit of section 54F of the Act, even if the new residential house is purchased by the assessee in the name of one of his family member. Since, the Hon'ble Punjab & Haryana High Court holds the view against the assessee, respectfully following the decision of Hon'ble Jurisdictional High Court in the case of Jai Narayan vs. ITO (supra) and Kamal Kant Kamboj vs. ITO (supra), we uphold the findings of the CIT(A), on this issue and dismiss ground no. 1 to 3 of assessee's appeal.

7. In ground no. 4 & 5 of appeal, the assessee has assailed addition of Rs.16,45,400/- on account of cash deposits. We find that in assessment proceedings, the assessee explained the source of cash deposits as earlier withdrawals from the bank. In First Appellate proceedings, the assessee changed his stance and explained that cash deposits were from advance received on sale of immovable property by her mother. However, the details of property against which the alleged advance was ostensibly received is conspicuously missing in the submissions of the assessee. Hence, the explanation furnished by the assessee on the second issue is unsubstantiated, therefore, cannot be accepted. Consequently, the assessee fails on ground no. 4 & 5 of appeal as well.

8. Ground no. 6 of appeal is general in nature has required no separate adjudication.

9. In the result, impugned order is upheld and appeal of the assessee is dismissed.

Order pronounced in the open court on Wednesday the 11th day of June, 2025.

Sd/-

(AMITABH SHUKLA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 11/06/2025

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

//True Copy//

SAG | **blog**

BY ORDER,

(Dy./Asstt. Registrar) ITAT, DELHI