आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

श्री रविश सूद,न्यायिक सदस्य एवं श्री मधुसूदन सावड़िया लेखा सदस्य समक्ष|

Before Shri Ravish Sood, Judicial Member
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं /**ITA No.1472/Hyd/2025**
(निर्धारण वर्ष/Assessment Year: 2018-19)

Shri Nitin Bhatia Hyderabad PAN:AKQPB1898R	Vs.	Income Tax Officer Ward 12 (1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	CA Y.V Bhanu Narayan Rao	
राजस्व द्वारा/Revenue by::	Shri S. Arun Kumar, Sr. DR	
सुनवाई की तारीख/Date of hearing:	16/12/2025	
घोषणा की तारीख/Pronouncement:	24/12/2025	

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

This appeal is filed by Shri Nitin Bhatia ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)") dated 14.07.2025 for the A.Y. 2018-19.

2. The assessee has raised the following grounds of appeal:

1. On the facts and in the circumstances of the case, the order of the Learned CIT(A) dated 14/7/2025 passed u/s 250 of the Income-tax Act, 1961 is bad in law and erroneous on facts.

2. On the facts and in the circumstances of the case, the learned CIT(A) erred in dismissing the appeal of the assessee and upholding the erroneous decision of the learned Assessing Officer by restricting the deduction u/s 54 of the Act to Rs. 44,40,000/- as against the claim of Rs. 66,91,617/-.

3. On the facts and in the circumstances of the case, the Learned CIT(A) erred by upholding the order passed by the learned Assessing officer by disallowing an amount of Rs. Rs.22,51,617/- u/s 54 of the Act without considering the submissions made by the Assessee and the fact that the assessee had invested the entire long term Capital Gains in the new residential house property much before the time limits specified u/s 54 of the Act.

4. On the facts and in the circumstances of the case, the learned CIT(A) ought to have considered the fact that section 54 is a beneficial section as per the intent of the legislation and ought not have restricted the claim for deduction u/s 54 of the Act to Rs. 44,40,000/- as against the claim of Rs. 66,91,617/- made by the assessee on mere technicalities.

5. On the facts and in the circumstances of the case, the Learned CIT(A) erred by upholding the order passed by the Learned Assessing Officer in levying interest U/s 234B and u/s 234D of the Act in consequence to the above made erroneous additions.

6. The Honorable ITAT is requested to admit additional grounds/evidence, if any, as per the decision of the honourable Supreme Court in the case of NTPC vs. CIT (229 ITR 383) and consider the same in the interest of justice.

7. For these and other reasons which may be adduced at the time of hearing, it is therefore prayed that the additions made by the learned A.O. which were confirmed by the learned CIT (Appeals) order passed u/s 250 for the A.Y. 2018-19 may kindly be deleted.

8. The appellant craves leave to add/alter any of the ground of appeal on or before the date of hearing.

Date: NITIN BHATIA
Place: Hyderabad APPELLANT

3. The brief facts of the case are that the assessee is an individual, filed his return of income for the Assessment Year

2018–19 on 20.09.2018 declaring a total income of Rs.1,03,71,960/-. During the relevant previous year, the assessee along with his spouse sold a jointly owned residential house property ("Original Residential House") vide registered sale deed dated 14.12.2017 for a total consideration of Rs.3,70,00,000/-. The long-term capital gain on the said transfer was computed at Rs.1,33,83,234/-, out of which the assessee's share at 50% worked out to Rs.66,91,617/-. The assessee claimed deduction of the entire long term capital gain under section 54 of the Income Tax Act, 1961 ("the Act"). The assessee had entered into an Agreement of Sale dated 02.03.2018 with M/s Sri Aditya Vamsiram Homes LLP for purchase of a new residential house for a total consideration of Rs.4,44,00,000/- and had made payments aggregating to Rs.44,40,000/- towards the new residential house up to the due date of filing the return under section 139(1) of the Act. The balance amount was subsequently paid through housing loan and own funds. The registered sale deed of the new residential house was executed on 24.10.2019, i.e., within two years from the date of transfer of the original residential house. The Ld. AO allowed the deduction under section 54 of the Act for the amount which was actually paid by the assessee till the due date of filing the return under section 139 (1) of the Act i.e. Rs.44,40,000/-. The balance amount of deduction under section 54 of the Act of Rs.22,51,617/- was not allowed by the Ld. AO contending that the assessee had not deposited the said amount in Capital Gain Account Scheme ("CGAS") in accordance with section 54(2) of the Act. Accordingly, the Ld. AO completed the

assessment under section 143(3) r.w.s. 143 (3A) and 143(3B) of the Act on 28.01.2021 assessing the total income of the assessee at Rs.1,32,46,244/-.

4. Aggrieved with the order of the Ld. AO, the assessee filed appeal before the Ld. CIT (A). The Ld. CIT (A) dismissed the appeal of the assessee and upheld the addition made by the Ld. AO.

5. Aggrieved with the order of the Ld. CIT (A), the assessee is in appeal before the Tribunal. At the outset, the Learned Authorised Representative ("Ld. AR") submitted that the solitary issue out of the grounds of appeal of the assessee is towards the rejection of deduction under section 54 of the Act amounting to Rs.22,51,617/-. The Ld. AR further submitted that the assessee had entered into an Agreement of Sale dated 02.03.2018 with M/s Sri Aditya Vamsiram Homes LLP for purchase of a new residential house for a total consideration of Rs.4,44,00,000/-. The Ld. AR also submitted that the assessee had made payments aggregating to Rs.44,40,000/- towards the new residential house up to the due date of filing the return under section 139(1) of the Act and that the balance amount was subsequently paid through housing loan and own funds. The registered sale deed was executed on 24.10.2019, i.e., well within two years from the date of transfer of the original residential house. The Ld. AR vehemently contended that as the assessee invested more than the amount of capital gain in purchase of the

new residential property within two years from the date of transfer of the original residential house, the substantive condition under section 54(1) of the Act stood fully complied with and that the denial of deduction of Rs. 22,51,617/- was solely on account of non-deposit of the unutilized amount in CGAS as contemplated under section 54(2) of the Act. The Ld. AR submitted that section 54(2) of the Act is only procedural and directory in nature and cannot override the substantive provision contained in section 54(1). In support, reliance was placed on the judgment of the Hon'ble Madras High Court in the case of Venkata Dilip Kumar v. CIT (2021) 419 ITR 298 (Mad.), wherein in para nos. 14 to 17, the Hon'ble High Court has clearly held that section 54(2) of the Act cannot be read in isolation and that once the assessee satisfies the requirement of section 54(1) of the Act, the benefit cannot be denied for mere procedural non-compliance under section 54(2) of the Act. It was further submitted that the legislative intent behind section 54 of the Act is to promote housing and alleviate genuine hardship, and therefore a liberal interpretation consistent with the object of the provision should be adopted. Accordingly, the Ld. AR prayed for allowing the appeal and directing the Ld. AO to grant full deduction of Rs.66,91,617/- under section 54 of the Act.

6. Per contra, the Learned Departmental Representative ("Ld. DR") supported the orders of the Ld. AO and the Ld. CIT(A). The Ld. DR submitted that the provisions of section 54(2) of the Act are mandatory and that the statute clearly requires the assessee to deposit the unutilized capital gain as contemplated

under section 54(2) of the Act before the due date prescribed under section 139(1) of the Act. The Ld. DR contended that in the present case, admittedly, the assessee had not deposited the balance amount of Rs.22,51,617/- in the CGAS account before the due date and therefore the Ld. AO was justified in restricting the deduction to the amount actually invested up to the due date of filing the return. The Ld. DR further submitted that the Ld. CIT(A) had rightly upheld the disallowance by applying the plain language of section 54(2) of the Act and that no interference is warranted. Accordingly, the Ld. DR prayed for dismissal of the appeal filed by the assessee.

7. We have carefully considered the rival submissions and perused the material available on record, including the judicial precedents relied upon. In the present case, the assessee sold the original residential house on 14.12.2017, resulting in long-term capital gains of Rs.66,91,617/-. The assessee thereafter purchased a new residential house for a total consideration of Rs.4,44,00,000/- by a registered sale deed dated 24.10.2019, which is within two years from the date of transfer of the original residential house. Out of the total consideration of Rs.4,44,00,000/-, the assessee had made payments aggregating to Rs.44,40,000/- up to the due date of filing of the return of income under section 139(1) of the Act. The Ld. AO allowed deduction under section 54 of the Act only to the extent of Rs.44,40,000/-, being the amount invested up to the due date of filing the return under section 139(1) of the Act, and disallowed the balance

deduction of Rs.22,51,617/- on the ground that the assessee had not deposited the said amount in the CGAS as contemplated under section 54(2) of the Act. Therefore, the solitary issue for our consideration is whether the balance amount of Rs.22,51,617/-, which was admittedly invested in the purchase of the new residential house within two years from the date of transfer of the original residential house, is eligible for deduction under section 54 of the Act, despite the assessee not having deposited the said amount in the CGAS as contemplated under section 54(2) of the Act. In this regards we find that the case law relied on by the Ld. AR i.e. the order of the Hon'ble Madras High Court in the case of Venkata Dilip Kumar v. CIT (supra) deals with the identical issue in para nos. 14 to 17 of the order, which is to the following effect :

> *"**14.** In my considered view, the contention of the Revenue to deny the benefit of deduction to the petitioner/assessee cannot be justified for the following reasons:*
>
> *Section 54(2) cannot be read in isolation and on the other hand, application of Section 54(2) should take place only when the assessee failed to satisfy the requirement under Section 54(1). While the compliance of requirement under Section 54(1) is mandatory and if complied, has to be construed as substantial compliance to grant the benefit of deduction, the compliance of requirement under Section 54(2) could be treated only as directory in nature. If the assessee with the material details and particulars satisfies that the amount for which deduction is sought for under Section 54 is utilised either for purchasing or constructing the residential house in India within the time prescribed under Section 54(1), the deduction is bound to be granted without reference to Section 54(2), which compliance in my considered view, would come into operation only in the event of failure on the part of the assessee to comply with the requirement under Section 54(1). Mere noncompliance of a procedural requirement under Section 54(2) itself cannot stand in the way of the assessee in getting the benefit under Section 54, if he is, otherwise, in a position to satisfy that the mandatory*

requirement under Section 54 (1) is fully complied with within the time limit prescribed therein.

15. At this juncture, the Division Bench decision of the Karnataka High Court made in ITA No.47 of 2014 in the case of K. Ramachandra Rao (supra) is relevant to be quoted, wherein while considering the scope of Section 54F(1) to 54F(4) of the Income Tax Act, it has been observed as follows:

"If the intention is not to retain cash but to invest in construction or any purchase of the property and if such investment is made within the period stipulated therein, then Section 54F(4) is not at all attracted and therefore, the contention that the assessee has not deposited the amount in the Bank account as stipulated and therefore, he is not entitled to the benefit even though he has invested the money in construction is also not correct."

16. Learned counsel for the Revenue relied on the decision of the Supreme Court Dilip Kumar and Co. (supra) in support of her contention that exemption notification should be interpreted strictly and the burden of proof of its applicability would be on the assessee. I have already pointed out that the assessee, in this case, has claimed that it has utilised the disputed sum towards the cost of the additional construction within the period of three years from the date of the transfer and therefore, if such contention is factually correct, it is to be held that the assessee has satisfied the mandatory requirement under Section 54(1) to get deduction. Therefore, I find that the above decision relied on by the Revenue is not helping the case of the respondents under the facts and circumstances of the present case.

17. The claim of the assessee for deduction of the disputed sum towards the additional construction cost was rejected only on the ground that the said sum was not deposited in the capital gain account. In view of my findings rendered supra, the Revenue is not justified in making such objection. On the other hand, it has to verify as to whether the said sum was utilised by the petitioner within the time stipulated under Section 54(1) for the purpose of construction. If it is found that such utilisation was made within such time, the Revenue is bound to grant deduction. Therefore, this Court is of the view that the matter needs to go back to the first respondent for considering the issue as to whether the disputed amount, claimed by the assessee as deduction, has been utilised by the petitioner towards the additional construction within the time limit prescribing under Section 54(1) and thereafter, to pass fresh order accordingly in the

light of the findings and observations rendered supra. Accordingly, the writ petition is allowed, and the matter is remitted back to the first respondent to pass a fresh order accordingly. Such exercise shall be done by the first respondent within a period of eight weeks. No costs."

8. On perusal of above, we find that the Hon'ble High Court has elaborately examined the interplay between sections 54(1) and 54(2) of the Act and has held that section 54(2) of the Act cannot be read independently or in isolation. The Hon'ble High Court has categorically held that section 54(2) of the Act comes into operation only when the assessee fails to comply with the substantive requirement under section 54(1) of the Act. The Hon'ble High Court further held that compliance with section 54(1) of the Act is mandatory and substantive, whereas the conditions under section 54(2) of the Act are procedural and directory in nature. Once the assessee has invested the capital gain in a new residential house within the period stipulated under section 54(1) of the Act, the benefit of deduction cannot be denied merely for non-compliance with section 54(2) of the Act. In the present case, the assessee has purchased of the new residential house within two years from the date of transfer of the original residential house. Thus, the substantive requirement of section 54(1) of the Act stands fully satisfied. Therefore, respectfully following the binding decision of the Hon'ble Madras High Court in the case of Venkata Dilip Kumar v. CIT (supra), we hold that the assessee is entitled to deduction under section 54 of the Act for the entire amount of Rs.66,91,617/-. Accordingly, the addition of

Rs.22,51,617/- made by the Ld. AO and sustained by the Ld. CIT(A) is directed to be deleted.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 24th December 2025.

Sd/-	Sd/-
(RAVISH SOOD) **JUDICIAL MEMBER**	**(MADHUSUDAN SAWDIA)** **ACCOUNTANT MEMBER**

Hyderabad, dated 24th December 2025

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri NITIN BHATIA 201 2ND FLOOR 12 VYJAYANTHI ,ROAD NO 12 BANJARAHILLS HYDERABAD 500034 ,Telangana
2	Income Tax Officer Ward 12(1) Aayakar Bhavan, Basheerbagh Hyderabad 500029
3	Pr. CIT – Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order