

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B”BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER
AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.1916/Bang/2025
Assessment Year : 2020-21

Pavan Kumar Agarwal No.111, 17 th C Main Koramangala 3 rd Block Bengaluru 560 034 Karnataka PAN No. ABDPA2605H APPELLANT	Vs.	DCIT Central Circle 2(3) Bengaluru RESPONDENT
---	------------	---

Appellant by	:	CA. H Padamchand Khincha, A.R.
Respondent by	:	Sri Subramanian, JCIT-D.R.

Date of Hearing	:	02.04.2026
Date of Pronouncement	:	29.06.2026

O R D E R

PER KESHAV DUBEY, JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against the order of the ld. CIT(A)-15, Bengaluru dated 24.06.2025 vide DIN: ITBA/APL/M/250/2025-26/1077710367(1) passed u/s 250 of the Income Tax Act, 1961 (in short “the Act”) for the assessment year 2020-21.

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

1. General

1.1 The order passed by the learned CIT(A) 15, Bangalore under section 250 of the Act dated 24.6.2025 is bad in law and liable to be quashed.

2. Disallowance of exemption under section 54 – Rs. 5,88,81,786

- 2.1 The learned DCIT, Central Circle 2(3), Bangalore erred in disallowing exemption under section 54 amounting to Rs. 5,88,81,787 and the learned CIT(A) 15, Bangalore erred in confirming the said disallowance.
- 2.2 The learned income tax authorities erred in restricting and allowing the exemption under section 54 to purchase of only one residential house property amounting to Rs. 5,91,80,000.
- 2.3 The learned income tax authorities erred in not appreciating that, during the year under consideration, the appellant sold 17 flats resulting in long term capital gains and invested the said capital gains in purchase of 4 residential properties and construction of one other residential property, thereby eligible for exemption under section 54 in respect of all 5 new residential properties.
- 2.4 The learned income tax authorities erred in not appreciating that (i) exemption under section 54 is allowed in respect of capital gains arising from transfer of a long term capital asset, being buildings or lands appurtenant thereto, being a residential house and the assessee purchases or constructs one residential house in India; (ii) since the appellant has sold 17 residential flats, the appellant is eligible for exemption under section 54 in respect of purchase or construction of 17 or less than 17 residential houses; (iii) amendment to section 54 limiting the exemption to purchase or construction of one residential house in India is applicable where the capital gains is arising from transfer of a residential house i.e., each residential house.
- 2.5 The learned income tax authorities erred in not appreciating that exemption under section 54 in respect of multiple residential houses has been allowed by the learned AO in the assessment order passed u/s 143(3) for AY 2022-23.

2.6 On facts and circumstances of the case and law applicable, exemption under section 54 amounting to Rs. 11,80,61,786 as claimed in the return of income.

3. Levy of Interest under section 234A and 234B

3.1 The levy of interest under section 234A and 234B is also bad in law and liable to be deleted. On facts and circumstances of the case and law applicable, interest under section 234A and 234B of the Act is not leviable. The Appellant denies its liability to pay interest under section 234A and 234B.

4. Prayer

4.1 In view of the above and other grounds to be adduced at the time of hearing, the appellant prays that the impugned assessment order under section 143(3) dated 30.3.2022 and the appellate order under section 250 dated 24.6.2025 be quashed or in the alternative the impugned addition of Rs. 5,88,81,786 be deleted.

3. The brief facts of the case are that the assessee is an individual and filing his return regularly. The assessee filed his return of income for AY 2020-21 on 15.02.2021 by declaring total income of Rs.1,76,90,530/-. Thereafter, the case of the assessee was selected for scrutiny proceedings under CASS with the following reasons:

- a) Credit of Brought forward TDS
- b) Capital Gains Deduction claimed

Accordingly, the statutory notice u/s 143(2) of the Act dated 29.06.2021 was issued and served on the assessee. Subsequently, notices u/s 142(1) of the Act was issued on various dates calling for specific details. The assessee has submitted his reply in response to the notices issued.

3.1 The assessee owned two parcels of land -one at Survey No. 71, Nallurahalli, Bengaluru and the other at Survey No. 172,

Kumbena Agrahara, Bengaluru. The assessee entered into Joint Development Agreement (JDA) with M/s Red Coral Properties on 31.7.2010 for construction of residential apartments in the land situated at Survey No. 71, Nallurahalli, Bengaluru. Similarly, another JDA was entered into by the assessee with M/s Reddy Structures Private Limited on 6.11.2012 to construct residential apartments in the land situated at Survey No. 172, Kumbena Agrahara, Bengaluru. The apartment complex at Survey No. 71, Nallurahalli was named '**Mahaveer Tranquil**' and the apartment complex at Survey No. 172, Kumbena Agrahara was named '**Mahaveer Willet**'. As per the sharing agreements, the assessee was allotted 76 apartments at 'Mahaveer Tranquil' and 46 apartments at 'Mahaveer Willet'.

3.2 During the year under consideration, the assessee sold 17 flats from both the aforesaid projects resulting in long-term capital gain aggregating to Rs.11,80,61,786/-. The details of capital gain are tabulated as below:

Sl. No.	Particulars	Long term Capital Gain (Rs.)
1.	Flat 501A, Mahaveer Willet	56,34,326
2.	Flat 106B, Mahaveer Willet	33,36,568
3.	Flat 406B, Mahaveer Willet	37,85,453
4.	Flat 803B, Mahaveer Tranquil	75,71,767
5.	Flat 205B, Mahaveer Tranquil	75,55,502
6.	Flat 103A, Mahaveer Tranquil	63,87,937
7.	Flat 501E, Mahaveer Tranquil	82,66,312
8.	Flat 802E, Mahaveer Tranquil	83,62,994
9.	Flat 404E, Mahaveer Tranquil	79,59,929
10.	Flat 401A, Mahaveer Tranquil	76,92,185
11.	Flat 604D, Mahaveer Tranquil	83,21,189
12.	Flat 202C, Mahaveer Tranquil	73,44,628
13.	Flat 101D, Mahaveer Tranquil	58,51,123
14.	Flat 602B, Mahaveer Tranquil	78,64,341
15.	Flat 503D, Mahaveer Tranquil	77,95,554
16.	Flat 303D, Mahaveer Tranquil	79,16,573
17.	Flat 103C, Mahaveer Tranquil	64,15,405
	Total	11,80,61,786

3.3 The long-term capital gains computed on sale of 17 flats amounting to Rs. 11,80,61,786/- was utilized for purchase of four residential properties and construction of one residential property to claim exemption under section 54 of the Act. The details of investment in aforesaid properties are as follows:

Sl. No.	Particulars of investment	Amount invested (Rs.)
1.	Construction of property at #359	44,04,190
2.	Purchase of residential property #423	5,91,80,000
3.	Purchase of Park Square Flat #302	2,49,01,392
4.	Purchase of Park Square Flat #603	2,30,00,000
5.	Park Square Flat improvement	39,19,788
6.	Purchase of Park Square Flat #203	2,31,70,661
		11,80,61,786

3.4 The AO concluded the assessment proceedings vide order dated 30/03/2022 passed u/s 143(3) of the Act by restricting the eligibility of the deduction claimed u/s 54 of the Act to investment in only one residential property- the property which is purchased at the earliest i.e., Rs.5,91,80,000/-. The balance amount of capital gain of Rs. 5,88,81,786/- [Rs.11,80,61,786- Rs. 5,91,80,000] was added to income under the head long term capital gains.

4. Aggrieved by the aforesaid order of the AO dated 30/03/2022 passed u/s 143(3) of the Act, the assessee preferred an appeal before the ld. CIT(A)-15, Bengaluru.

5. The CIT(A)-15, Bengaluru vide order dated **24.6.2025** confirmed the action of the AO in allowing exemption under section 54 of the Act to only one residential house property and consequently dismissed the appeal of the assessee.

6. Again, aggrieved by the order of Id. CIT(A)-15, Bengaluru, the assessee has filed the present appeal before this Tribunal. The assessee has filed two paper book comprising total 537 pages containing therein various documents/record, written submissions and case laws relied upon by the assessee.

7. Before us, the Id. A.R. of the assessee CA. H Padamchand Khincha appearing for the assessee contended that the exemption under section 54 of the Act is allowable in respect of capital gains arising from transfer of each residential house. The Id. AR of the assessee relied upon the CBDT letter No 207/24/76-IT(A-II), dated 25.3.1977 to contend that capital gains arising on transfer of each residential house is eligible for exemption under section 54 of the Act. Further relying on the decision of ITAT Special Bench in the case of JCIT v Montgomery Emerging Markets Fund [2006] 100 ITD 217, it is argued that capital gains arising from transfer of each and every residential house **is a separate source of income** and consequently exemption under section 54 of the Act should also be allowed **separately for each capital gains**. The memorandum explaining the provisions of Finance No 2 Bill 2014 was relied on to argue that the memorandum does not state that exemption is allowable in respect of one residential house even if the assessee has sold multiple residential houses during the year. The Id. AR of the assessee further submitted that unlike section 54EC and 54EE wherein exemption is restricted to Rs. 50 lakhs from capital gains arising from one or more capital assets during the year, section 54 of the Act does not state that exemption is limited to one residential house for capital gains arising from transfer of one or more residential house during the year. The details filed during the assessment proceedings for AY 2018-19 and the assessment order passed for AY 2018-19 and AY 2019-20 was also submitted and it was argued that the exemption under section 54 of the Act had

been allowed in respect of investment in more than one residential houses. It was thus argued that a differential treatment cannot be taken for the year under consideration. Even otherwise, it was argued that multiple flats in same building should be considered as one residential house for the purposes of section 54 of the Act.

8. The ld. D.R. on the other hand relied upon the orders of the authorities below and justified the restriction of exemption under section 54 of the Act in respect of one residential house although 17 flats were sold during the year by referring to provisions of section 54 of the Act.

9. We have heard the rival submissions and perused the materials available on record. The sole issue as raised in the present appeal is with regard to the disallowance of exemption claimed under section 54 of the Act amounting to Rs. 5,88,81,787. On perusal of the assessment order, we observed that the AO had reproduced section 54(1) of the Act and affirmed that benefit of section 54 of the Act is available only against the purchase / construction of one residential property. The AO had also reproduced the relevant portion of the explanatory notes and stated that the legislative intent is very clear that the benefit of section 54 of the Act is available if and only if investment is made in one residential house within India, even if the assessee has sold multiple properties during the year. The AO also referred to the proviso to section 54(1) of the Act which allows investment in two residential houses in India provided the capital gain does not exceed Rs. 2 crores. The AO concluded that the assessee is not eligible for the benefit of this proviso as the capital gains in the case of the assessee exceeded Rs. 2 crores. Thus, the AO has allowed exemption under section 54 of the Act only in respect of one residential house property although 17 flats were sold during the

year under consideration. The Id. CIT(A) has confirmed the action of the AO in restricting the investment to only on residential house property.

9.1 As per section 45 of the Act, any profits or gains arising from the transfer of a **capital asset** effected in the previous year shall, save as otherwise provided in [sections 54](#), [54B](#), [54D](#), [54E](#), [54EA](#), [54EB](#), [54F](#), [54G](#) and [54H](#), be chargeable to income-tax under the head "Capital gains", and shall be deemed to be the income of the previous year in which the transfer took place. In the present case, the exemption is claimed by the assessee under section 54 of the Act. Section 54(1) of the Act which thus becomes relevant and as applicable for AY 2020-21 reads as under-

Profit on sale of property used for residence.

54. (1) Subject to the provisions of sub-section (2), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of a long-term capital asset, being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property" (hereafter in this section referred to as the original asset), and the assessee has within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, one residential house in India, then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,—

- | | |
|-----|--|
| (i) | <i>if the amount of the capital gain is greater than the cost of the residential house so purchased or constructed (hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the</i> |
|-----|--|

	<i>new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil; or</i>
(ii)	<i>if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain:</i>

Provided that where the amount of the capital gain does not exceed two crore rupees, the assessee may, at his option, purchase or construct two residential houses in India, and where such option has been exercised,—

(a)	<i>the provisions of this sub-section shall have effect as if for the words "one residential house in India", the words "two residential houses in India" had been substituted;</i>
(b)	<i>any reference in this sub-section and sub-section (2) to "new asset" shall be construed as a reference to the two residential houses in India:</i>

Provided further that where during any assessment year, the assessee has exercised the option referred to in the first proviso, he shall not be subsequently entitled to exercise the option for the same or any other assessment year:

9.2 Thus Section 54 of the Act provides exemption in respect of capital gains arising from the transfer of a long-term capital asset, being a residential house. The capital gains arising from transfer of a long-term capital asset, being a residential house is chargeable to tax under section 45 of the Act. As discussed above section 45 of

the Act which is a chargeable section provides that any profits and gains arising from the transfer of a capital asset effected in the previous year shall, save as otherwise provided in sections 54, 54B, 54D, 54E, 54EA, 54EB, 54F, 54G and 54H, be chargeable to income tax under the head Capital gains. Further, Section 48 of the Act provides for computation mechanism of income chargeable under the head Capital gains. Full value of consideration received or accruing as a result of the transfer of the capital asset is the starting point for such computation. The provisions of section 45 and 48 of the Act envisages computation of capital gains for each capital asset. In other words, profits and gains arising from each and every capital asset is chargeable under the head Capital gains. In holding so, we are getting guidance & support of the decision of the ITAT Special Bench in the case of JCIT v Montgomery Emerging Markets Fund [2006] 100 ITD 217 wherein it was held as under.

“44. Therefore, it is very apparent that source of income does not mean head of income. The Assessing Officer has proceeded on a hypothesis as if the source of income is the head of income itself. This is not a proper construction of law provided in section 70. Short term capital gains/loss as well as long term capital gains/loss both are computed under the head "capital gains" for the aggregation of income culminating into total income which is taxable under the Income-tax Act. What is taxed by the Income-tax Act is not different sources of income independently, but income from different sources clubbed under respective heads and finally aggregated into the total income. The classification of income under different heads for computing the total income does not interfere with the independent character of different sources of income available to an assessee. Both, short term capital gains/loss and long term capital gains/loss are different sources of income, falling under the same head "capital gains". Even under short term capital gains, different transactions will be different sources of income resulting in short term capital gains/loss. Likewise, different transactions of long term capital assets will be different sources of income for an assessee to arrive at long term capital gains/loss. This is reflected in the scheme of computation of

capital gains provided in section 48 where gains or loss is computed on the basis of individual asset and transaction and not on the basis of class of assets. Therefore, we have to agree with the argument of the learned senior counsel that every transaction of a property is a different source of income for the assessee. Head of income is not the source of income. Source of income is having the direct nexus with the stream or fountain out of which the income springs to the assessee. Head of income is provided for clubbing purpose of those like minded incomes derived from different sources for the purpose of aggregation and allowable deductions.

45. We, therefore, find that there is no basis in grouping short term capital assets as a separate source of income and long term capital assets as a separate source of income. Not only short term and long term assets are different sources of income, but even the different short term assets and different long term assets involved in the respective transactions are again different sources of income. When section 70 provides that a loss falling under a source of income can be set off against income from any other source under the same head, it means that the long term capital loss being a separate source can be set off against short term capital gains, which is another separate source of income. Within the provisions of law contained in section 70, there is no further identification of sources of income against which alone loss of a particular source can be set off. What is mentioned in the law is only source of income. As far as the head of income "capital gains" is concerned, the sources could be transfer of short-term capital asset as well as transfer of long term capital assets and transfer of different assets will be different sources of income. There is no further identification or qualification with respect to any source so that the law would presume any sort of restriction on set off of loss arising from one source against income arising from any other source. Therefore, the contention of the assessee that irrespective of the identity of the source of income, it is possible for the assessee to set off the loss of a particular source against income from another source, both falling under the same head of income is tenable in law. Accordingly, the computation made by the assessee by setting off the long term capital loss against short term capital gains

and in that way saving the differential tax benefit available to long term capital gains is supported by law.”

9.3 We are of the considered opinion that when section 45 and 48 of the Act are applicable in respect of profits and gains arising from each and every capital asset, then section 54 of the Act also should be understood as an exemption provision available in respect of capital gain arising from transfer of each and every long term capital asset, being a residential house. A plain reading of section 54(1) extracted above provides for exemption under the said section from capital gains arising from transfer of **a long term capital asset**, being **a residential** house. It does not provide for clubbing of capital gains arising from transfer of one or more capital assets and allowing exemption there from. In this context, the co-ordinate bench of ITAT Mumbai in the case of Rajesh Keshav Pillai v ITO reported in [2011] 7 taxmann.com 11 wherein it is held as under-

*“4.1 A perusal of provisions of section 54(1) which has been reproduced at page 2 earlier shows that capital gain arising from transfer of a long-term capital asset being a residential house the income of which is chargeable under the head "income from house property" is exempt if the capital gain is invested in a residential house in the manner prescribed in the said section. **There is no restriction placed any where in section 54 that exemption is available only in relation to sale of one residential house. Therefore, in case the assessee has sold two residential houses, being long-term assets, the capital gain arising from the second residential house is also capital gain arising from the transfer of a long-term assets being a residential house. The provisions of section therefore will also be applicable to the sale of second residential house and similarly to a third residential house and so on. Whenever the exemption***

available to restricted to one asset, a suitable provision is incorporated in the relevant section itself. For instance section 23(2) exempts income from a property consisting of a house or a part of house which is in occupation of the assessee or which could not be occupied by the assessee because of his employment/business/profession being carried on at some other place. Based on such provisions contained in section 23(2), income from any number of properties being residential houses which are self-occupied will have to be treated as exempt. But a restriction has been placed in section 23(4) which provides that where the property referred to in sub-section (2) consists of more than one residential houses, exemption would be available only in respect of one house and other self-occupied residential houses will be treated as let out. There is no such provision in section 54 to restrict the exemption of capital gain only to sale of one residential house. The authorities below have taken the view that whenever more than one option is given to the assessee the word used is "any". The reference has been made to the provisions of section 54E etc. We find from perusal of the said sections that the word "any" has been used because the assessee has option to invest in any of the assets mentioned therein. For instance, section 54E provides exemption in respect of capital gain arising from transfer of a long-term capital asset if whole or any part of the net consideration is invested in any specified assets within six months from the date of transfer. Since the specified assets were more than one, the word "any" has been used because the exemption will be available if the investment is made in any of the specified assets. The situation in section 54 is different. Considering the language used in section 54(1), in our view exemption will be available in respect of transfer of any number of long-term capital assets being residential houses if other conditions are fulfilled."

9.4 Similarly, the coordinate bench of ITAT Mumbai in the case of *Shri Humayun S Rangila v ITO* ITA No 1239/M/2010 vide order dated 23.2.2011 in which the Assessee sold three residential flats and invested the capital gains into another three residential flats, held that section 54 of the Act exempts capital gain arising from sale of a long term capital asset being a residential house and therefore it will apply to sale of any residential house provided other conditions are fulfilled. CBDT letter in F No 207/24/76-IT(A-II), dated 25.3.1977 was referred by the Tribunal in which it has been mentioned that capital gain arising on transfer of **each house will qualify for exemption** in case the assessee had sold more than one residential house. Similarly, the co-ordinate bench of ITAT in the case of *DCIT v Ranjit Vithaldas* [2012] 23 taxmann.com 226 (Mumbai), *Vijay Kumar Wanchoo v ITO* [2021] 124 taxmann.com 82 (Delhi) allowed the exemption under section 54 of the Act where capital gains arising from sale of two flats are invested in one residential house. Thus, we are of the considered opinion that the exemption under section 54 of the Act is available in respect of capital gains arising from transfer of each and every long term capital asset, being a residential house.

9.5 Now coming to the crux of the issue i.e., exemption under section 54 of the Act is allowable for purchase or construction of one residential house in India. In our considered opinion the term 'one residential house in India' was brought in place of 'a residential house' in section 54(1) of the Act by the Finance No 2 Act 2014 w.e.f 1.4.2015. The memorandum explaining the provisions of Finance No 2 Bill 2014 provides that the rollover relief under section 54/54F is available if the investment is made in one residential house situated in India. It does not provide that exemption will be limited to one residential house in respect of long term capital gain arising

from transfer of more than one residential house. Second proviso to section 54EC and 54EE of the Act specifically states that exemption under the said sections is limited to Rs. 50 lakhs in respect of capital gains arising from transfer of **one or more original assets** during the financial year in which the original asset or assets are transferred and in the subsequent financial year. Similarly, section 23(4) of the Act specifically provides that annual value of any two houses occupied for assessee's own residence shall be taken as NIL and the annual value of self occupied houses in excess of 2 houses at the option of the assessee shall be computed as per section 23(1) of the Act as if such house or houses had been let. Thus, wherever legislature wanted to curtail exemption to a particular limit, it has specifically provided so. Unlike second proviso to section 54EC and 54EE of the Act, section 54 of the Act does not provide that exemption will be limited to one residential house in respect of long term capital gain arising from transfer of more than one residential house.

9.6 The first proviso to section 54 of the Act provides that the benefit of exemption is available for two residential houses in India if the amount of the capital gain does not exceed Rs. 2 crores. Second proviso to section 54 of the Act limits the above benefit only once to an assessee. Thus, the benefit under the first proviso will be applicable if the amount of capital gain from transfer of a single residential house does not exceed Rs. 2 crores. In our considered opinion the usage of definite expression '*where the amount of capital gain does not exceed two crore rupees*' in first proviso to section 54 of the Act means that the capital gain from transfer of a single residential house does not exceed Rs. 2 crores. Neither the first proviso nor the second proviso provides for clubbing of all long term capital gains from transfer of more than one residential houses in order to compute the limit of Rs. 2 crores. It is a settled principle

that intention of the legislature has to be gathered from the language used in the statute, which means that attention should be paid to what has been said **as also to what has not been said**. It is contrary to all rules of construction to read words into a statute, which the Legislature in its wisdom has deliberately not incorporated. [CIT v Tara Agencies [2007] 292 ITR 444 (SC)]. Thus, in the absence of a specific provision under section 54 of the Act, long term capital gains arising from transfer of one or more residential house cannot be clubbed and exemption cannot be restricted for purchase or construction of one residential house in India.

9.7 Thus, in our considered opinion the exemption under section 54 is available in respect of capital gains arising from transfer of each and every long term capital asset, being residential house, the said exemption will be allowable for purchase or construction of one residential house in India. In other words, for long term capital gains arising from transfer of each and every residential house, exemption under section 54 of the Act is allowed if the assessee purchases or constructs one residential house in India. Similarly, long term capital gains arising from transfer of more than one residential house will be exempt under section 54 of the Act if the assessee purchases or constructs one residential house in India. However, the number of residential houses for which exemption is claimed under section 54 of the Act cannot exceed the number of residential houses transferred resulting in long term capital gains. For instance, in the present case, assessee has declared long term capital gains from transfer of 17 residential houses. Thus, the assessee will be eligible for exemption under section 54 of the Act if he purchases or constructs 17 or less than 17 residential houses in India. From the schedule of investment made in the new residential houses, it is evident that the assessee has used the capital gains on

sale of 17 flats in acquiring 5 new houses/flats. The number of new residential units are less than the number of flats sold. Thus, we are of the considered opinion that the conditions of section 54 of the Act are not violated.

9.8 The Bombay High Court in Krishnagopal B Nangpal v DCIT reported in [2025] 176 taxmann.com 752 examined the claim of exemption under section 54 of the Act for AY 1995-96 i.e., for a case prior to amendment by Finance No 2 Act 2014. The assessee therein sold his flat in Mumbai and invested in seven row houses in Pune. The Bombay High Court allowed the exemption under section 54 of the Act for all seven row houses and held that the emphasis in the unamended section 54(1) of the Act is on the **residential nature** of the property and the objective was never to restrict the number of residential houses purchased against capital gains. It held that the words 'a residential house' were merely descriptive nature of the assets sold/purchased and not restrictive of the number of assets sold or purchased. Although the above discussion is not relevant in the present case as we are considering the claim of exemption under section 54 of the Act after the amendment by Finance No 2 Act 2014 w.e.f 1.4.2015, what is relevant is para 13 of the above decision in which the Bombay High Court explained the above amendment as under-

"13. In our view, the amendment brought in by Finance (No.2) Act 2014 makes the position clear that after the amendment, the capital gains can be adjusted against purchase of only 'one' residential house. The word 'a' is consciously replaced by the legislature by the word 'one' by way of amendment making the intention clear that after the amendment, it is impermissible to adjust the capital gains arising out of one house towards purchase of more than one houses. If the restriction of adjustment of capital gains against

only one house was already there in the unamended Section 54(1), there was no necessity of amendment by specifically using the word 'one'."

9.9 In view of the above, the long term capital gains arising from transfer of one residential house cannot be claimed as exempt under section 54 by investing in 2 residential houses. The amendment does not provide that long term capital gains arising from transfer of all residential houses is restricted to purchase or construction of one residential house. In the present case, assessee had sold 17 flats and consequently he is eligible for the roll over benefit under section 54 of the Act if he purchases or constructs not more than 17 residential houses. Undisputedly, in the present case the assessee had invested the amount of capital gains in purchase or construction of 5 residential houses as tabulated above. Thus, the action of the AO in restricting exemption under section 54 to only one residential house is not in accordance with law.

9.10 Further, we take a note of the interesting fact that the income tax return also provides for the claim of exemption under section 54 of the Act in respect of **each and every long term capital gains**. The assessee declared long term capital gain from transfer of 17 residential flats and the exemption claimed under section 54 of the Act in respect of each and every long term capital gains in the income tax return filed by the Assessee. [Placed at pages 72 to 83 of PB]. Thus, the format of the income tax return also providing for the claim of exemption under section 54 of the Act qua each long term capital gains from transfer of a residential house lends support to the argument that benefit of exemption under section 54 of the Act in the form of purchase or construction

of one residential house in India is applicable for each and every long term capital gains from transfer of a residential house.

9.11 Further, it is contended that for AY 2018-19 and AY 2019-20, the assessee sold multiple flats and claimed exemption under section 54 of the Act for investing in multiple residential houses. The return of income filed for AY 2018-19 was selected for **limited scrutiny** to examine the issue of capital gains deduction claimed vide notice under section 143(2) of the Act dated 28.9.2019. The notices under section 142(1) of the Act dated 28.12.2019, 11.2.2020, 24.2.2020 and 18.3.2020 were also issued calling for various documents and information relating to exemption claimed under section 54 of the Act. The notice under section 142(1) of the Act dated 24.2.2020 and 18.3.2020 proposed to allow exemption under section 54 of the Act only for one residential house property with an investment of Rs. 1,60,07,000 and the remaining exemption claimed amounting to Rs. 10,63,45,775 was proposed to be disallowed. In the meantime, the notice under section 153C was issued on 4.9.2020 and the assessee filed the return of income in response to notice under section 153C of the Act on 13.11.2020. The Assessment order was passed under section 143(3) r.w.s 153C on 7.4.2021 **accepting the exemption claimed** under section 54 of the Act and the income returned. Similarly, for AY 2019-20, the AO passed the assessment order under section 143(3) on 9.4.2021 accepting the exemption claimed under section 54 of the Act. The addition of Rs. 8,39,000/- was made in the said order as unexplained cash under the head Income from other sources. [Placed at pages 522 to 528 of additional paper book]. Thus, the claim of exemption under section 54 of the Act in respect of multiple residential houses were already examined and allowed in the assessment orders passed in assessee's own case for AY 2018-19 and AY 2019-20. Consequently, we are of the considered opinion

that following the rule of consistency a different stand should not be taken for the year under consideration which is in our opinion is also not correct.

9.12 We are of the considered opinion that Income tax Act, 1961 is structured in a manner that computation provisions are to be applied source wise. For instance, salary from an employer, income from a house property, any profits and gains arising from the transfer of a capital asset, profits and gains from any business, income from other sources is chargeable to tax. The computation provision, say for section 22 to 26 of the Act should be applied for each property which fetches income. So would be the case for capital gains whereunder each capital asset transferred becomes the subject matter of computation. Section 45 to 55 of the Act are to be applied independently for each asset transferred. The decision of the Special Bench of ITAT in the case of JCIT v Montgomery Emerging Markets Fund [2006] 100 ITD 217 confirms the same. Chapter VI reinforces that computation of income has to proceed source wise. Section 70 of the Act for e.g. provides that if there is a loss from a source of income then that loss can be set off against income from another source under the same head of income. The segregation of various sources during computation and their aggregation “head wise” under section 70 reaffirms the primacy of source wise computation. Further Section 71 of the Act thereafter provides for set off of loss under one head against income under other heads (subject to certain limitations which are not relevant for the present). We are of the considered opinion that in the present case, as the assessee had capital gains from 17 flats, the computation under section 45 to 55 of the Act would have to be made for each flat independently. In the process of such computation, by the mandate of the latter part of section 45, section 54 etc would have to be given effect to. It is only thereafter

that capital gains income from the particular property would be arrived at. In view of the above, the Authorities below are not correct in restricting the claim of exemption under section 54 of the Act to only one residential house and accordingly the assessee's claim of exemption under section 54 of the Act as claimed in the return of income are allowed.

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

Order pronounced in the open court on 29th June, 2026

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Keshav Dubey)
Judicial Member

Bangalore,
Dated 29th June, 2026.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

Asst. Registrar,
ITAT, Bangalore.