

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER  
AND  
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

ITA No.6163/Del/2018  
Assessment Year: 2014-15

ITO, Ward-3(4), New Delhi	<b>Vs.</b>	Sh. Subhash Chandra Narang, A-7, Phase-II, Mayapuri Industrial Area, New Delhi
<b>PAN :AAAPN0971B</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. H.K. Chaudhary, CIT(DR) Sh. Umesh Takyar, Sr.DR
Respondent by	Sh. Atul Puri, CA Ms. Pooja Kakkar, Advocate

Date of hearing	02.03.2022
Date of pronouncement	09.03.2022

**ORDER**

**PER SAKTIJIT DEY, JM:**

This is an appeal by the Revenue against order dated 05.07.2018 of learned Commissioner of Income Tax (Appeals)-I, New Delhi, pertaining to assessment year 2014-15.

**2.** Grounds raised by the Revenue are as under:

1. *On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law and on facts in accepting the additional documents/evidences submitted at appellate stage.*
2. *Ld. CIT(A) has erred in law and on facts in allowing the deduction u/s 54F of the Income Tax Act.*
3. *Ld. CIT(A) has erred in law and facts in not adjudicating upon the unsubstantiated exaggerated cost of improvement.*

**3.** Briefly the facts are, the assessee is a resident individual. For the assessment year under dispute, assessee filed his return of income on 27.11.2014 declaring income of Rs.90,56,430/-. Assessee's case was selected for limited scrutiny to examine huge increase in annual lettable value of house property without any capital gain income offered by assessee. In course of assessment proceeding, after verifying the details called for and furnished by the assessee, the Assessing Officer noticed that in the year under consideration, the assessee has sold an immovable property and derived long term capital gain. However, after claiming deduction on account of cost of acquisition, cost of improvement as well as investment made for purchase of new residential house in terms of section 54F of the Income-Tax Act, 1961 (in short 'the Act'), the assessee computed taxable capital gain at nil. After examining the

details, the Assessing Officer observed that the assessee was unable to furnish complete bills/vouchers for cost of improvement. Therefore, he did not allow assessee's claim of cost of improvement amounting to Rs.1,65,39,435/-. Additionally, he also rejected assessee's claim of deduction under section 54F of the Act by observing that the assessee had invested the capital gain in purchase of an agricultural land and not a residential house. Being aggrieved with the aforesaid decision of the Assessing Officer, assessee preferred an appeal before learned Commissioner (Appeals).

**4.** After considering assessee's submission in the context of facts and materials on record, learned Commissioner (Appeals) deleted the addition made by the Assessing Officer.

**5.** We have considered rival submissions and perused the materials on record. Undisputedly, the Assessing Officer has added an amount of Rs.3,18,61,356/- as long term capital gain. The aforesaid addition is as a result of couple of disallowances, viz., disallowance of cost of improvement amounting to Rs.1,65,39,435/- and deduction claimed under section 54F of the Act towards investment in a new residential house. However, learned Commissioner (Appeals), after due inquiry and

verification of the relevant facts having found that the new asset purchased by the assessee is a residential house, has allowed the claim of deduction under section 54F of the Act. On perusal of the materials on record, it is noticed that in course of proceeding before the first appellate authority, the assessee has furnished the sale-deed of the property purchased by him indicating that it is a residential house. The evidence furnished by assessee was forwarded to the Assessing Officer for verification. After receiving the additional evidence furnished by the assessee, the Assessing Office made a field inquiry through the Ward Inspector to ascertain assessee's claim of existence of residential house. Based on the field inquiry conducted by Inspector, the Assessing Officer has furnished his factual report to learned Commissioner (Appeals), which reads as under:

*“Therefore, as per the directions of the CIT(A), inspector of this ward was deputed to conduct field enquiry with regard to genuineness of claim of the assessee about the construction of house property on the said land. The inspector has reported that the said land is a farmhouse with construction of Basement, Ground Floor, First Floor and some construction on second floor. Inspector's report is enclosed herewith for kind reference. The assessee was also requested by this office to submit other documentary proofs to substantiate that the house was in existence at the time of purchase of land by the assessee. The assessee has submitted copy of khasra girdawari of 2004-05, 2008-09 and 2017-18 which confirms the fact that there was a house on the said land during that period. Further, the assessee has also submitted copy of assessment order u/s 123D of*

*DMC Act for payment of property tax of the said property for period w.e.f 2004-05 onwards.*

*From the enquiries conducted by this office and from the sale deed and other documents, it seems that the house property was in existence on the said land when the same was purchased by the assessee on 09-07-2013. All the above documents are forwarded to your goodself for deciding the issue on merit on the basis of these documents.”*

**6.** On a careful perusal of the remand report furnished by the Assessing Officer, it becomes patent and obvious that on physical inquiry it has been found that the new asset purchased by the assessee is a residential house. That being the factual position, assessee's claim of deduction under section 54F of the Act is certainly allowable. In view of the aforesaid, we do not find any infirmity in the decision of learned Commissioner (Appeals) in allowing assessee's claim of deduction under section 54F of the Act.

**7.** As regards the ground raised by the Revenue that learned Commissioner (Appeals) has not adjudicated the issue relating to cost of improvement claimed by the assessee, in our view, no such adjudication is necessary as the investment made by the assessee in purchase of new residential house subsumes the entire sale consideration. Therefore, it becomes irrelevant whether

assessee's claim of cost of improvement is allowable or not.

Accordingly, grounds are dismissed.

**8.** In the result, the appeal is dismissed.

***Order pronounced in the open court on 9<sup>th</sup> March, 2022***

***Sd/-***  
**(DR. B.R.R. KUMAR)**  
**ACCOUNTANT MEMBER**

***Sd/-***  
**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Dated: 9<sup>th</sup> March, 2022.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi