आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए" , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री ललित कुमार, न्यायिक सदस्य एवं श्री कृणवन्त सहाय, लेखा सदस्य
BEFORE: SHRI. LALIET KUMAR, JM & SHRI. KRINWANT SAHAY, AM

आयकर अपील सं. / ITA No. 1217/Chd/ 2024
निर्धारण वर्ष / Assessment Year : 2017-18

Jugesh Saluja C/o Tejmohan Singh, Advocate # 527, Sector-10D, Chandigarh-160011	बनाम	The Dy. CIT Circle 4(1), Chandigarh
स्थायी लेखा सं. /PAN NO: ADQPS094J		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Tejmohan Singh, Advocate
राजस्व की ओर से/ Revenue by : Shri Vivek Vardhan, Addl. CIT, Sr. DR

सुनवाई की तारीख/Date of Hearing : 22/04/2026
उदघोषणा की तारीख/Date of Pronouncement : 20/05/2026

आदेश/Order

PER LALIET KUMAR, J.M:

This appeal has been preferred by the assessee against the order passed by the ld. CIT(A), NFAC, Delhi dated 05.11.2024 pertaining to assessment year 2017-18, arising out of the assessment order passed under section 143(3) of the Income Tax Act, 1961.

2. The assessee has raised various grounds of appeal challenging the action of the lower authorities in disallowing indexed cost of improvement amounting to Rs.1,03,41,977/- and restricting deduction claimed under section 54 of the Act to Rs.88,66,540/- as against claim of Rs.2,12,81,658/-.

3. Briefly stated, the facts of the case are that the assessee had sold residential property situated at House No.156, Sector 33-A, Chandigarh during the year under consideration for a sale consideration adopted under section 50C at Rs. 4,39,66,173/-. While computing long term capital gains, the

assessee claimed indexed cost of acquisition/improvement amounting to Rs.1,03,41,977/-, deduction under section 54 amounting to Rs.2,12,81,658/- on account of investment in a new residential property at Pune and deduction under section 54EC amounting to Rs.50,00,000/- on account of investment in specified bonds. Consequently, the assessee declared taxable long term capital gain at Rs.73,42,538/-.

4. During the course of assessment proceedings, the Assessing Officer required the assessee to substantiate the claim of indexed cost of improvement and deduction claimed under section 54. The Assessing Officer observed that the assessee had failed to produce supporting bills, vouchers and documentary evidence in support of the expenditure claimed towards improvement carried out in financial years 1985-86, 1986-87, 1996-97 and 2006-07. The Assessing Officer further observed that the new residential property at Pune had been purchased jointly in the names of the assessee and her husband and accordingly held that deduction under section 54 was allowable only to the extent of 50% share of the assessee in the property. The Assessing Officer also excluded GST, infrastructure charges, utility charges, cluster fund, club charges and other incidental expenses from the eligible cost of acquisition of the new residential property and restricted the deduction under section 54 to Rs.88,66,540/-. Accordingly, additions amounting to Rs.1,03,41,977/- and Rs.1,24,15,208/- were made and assessment was completed at an income of Rs.3,13,09,655/-.

5. Aggrieved against the assessment order, the assessee carried the matter in appeal before the ld. CIT(A). The ld. CIT(A), after considering the submissions of the assessee and remand report of the Assessing Officer, confirmed the additions made by the Assessing Officer by holding that the assessee had failed to substantiate the cost of improvement with documentary evidences and that deduction under section 54 was rightly

restricted to 50% of the eligible investment since the new residential property stood in joint names of the assessee and her husband.

6. Against the order of the Ld. CIT(A) the assessee preferred an appeal before the Tribunal.

7. Before us, the ld. Counsel for the assessee submitted that the authorities below have erred in disallowing the indexed cost of improvement merely because old bills and vouchers were not available. It was submitted that the property in question consisted of constructed residential house and the existence of the super structure itself stood accepted by the stamp valuation authority while valuing the property for the purposes of stamp duty. It was further submitted that the assessee had furnished details of construction and improvements carried out over different years and the authorities below could not have rejected the claim outrightly without resorting to valuation mechanism contemplated under section 55A of the Act. The ld. Counsel further submitted that the assessee had invested the entire sale consideration in acquisition of leasehold rights in a residential flat at Pune and the entire consideration had been paid out of the assessee's own bank account. Merely because the husband of the assessee was included as joint holder, deduction under section 54 could not be restricted. Reliance was placed upon the decisions of Hon'ble Karnataka High Court in the case of CIT vs. Jennifer Bhide, Hon'ble Delhi High Court in the case of CIT vs. Ravinder Kumar Arora and other judicial precedents.

8. Per contra, the ld. DR strongly relied upon the orders of the lower authorities and submitted that the assessee had failed to produce any supporting evidence in respect of the alleged cost of improvement despite repeated opportunities granted during assessment proceedings. It was further submitted that the new residential property admittedly stood jointly

owned and therefore the Assessing Officer had rightly restricted deduction under section 54 to the extent of assessee's ownership share.

9. We have heard the rival submissions and perused the material available on record. So far as the issue relating to indexed cost of improvement is concerned, we find that the assessee had originally acquired residential plot bearing House No.156, Sector 33-A, Chandigarh admeasuring 523.13 square yards vide registered sale deed dated 02.09.1985 for a total consideration of Rs.2,25,000/- besides stamp duty and other incidental expenses, thereby resulting into total acquisition cost of Rs.2,49,000/- claimed by the assessee for the financial year 1985-86. Thereafter, the assessee carried out construction and improvements in the said residential property from time to time. The assessee incurred expenditure of Rs. 6,25,100/- during the financial year 1986-87 towards the construction of the residential superstructure immediately after the acquisition of the plot. Subsequently, further improvement expenditure of Rs. 4,89,000/- was incurred during the financial year 1996-97, and additional renovation/improvement expenditure of Rs. 6,50,000/- was incurred during the financial year 2006-07. On the basis of the aforesaid investments, the assessee claimed indexed cost of acquisition/improvement aggregating to Rs. 1,03,41,977/- while computing long-term capital gains arising from the sale of the property.

10. The aforesaid residential property was ultimately sold vide registered sale deed dated 14.12.2016 for a consideration adopted under section 50C at Rs.4,39,66,173/-. Significantly, from the recitals contained in the registered sale deed itself, it emerges that the residential house constructed on the said plot had a covered area of 3300 square feet. Further, the stamp valuation authority/Sub-Registrar, while valuing the property for stamp duty purposes, had adopted the value of the superstructure at the rate of Rs.800/- per square foot and accordingly determined the value of the constructed portion at Rs.26,40,000/-. Thus, the very sale deed executed on 14.12.2016

clearly establishes the existence of substantial construction over the property in question. The existence of residential superstructure, therefore, stood duly recognised not only by the parties to the transaction but also by the statutory registration authority.

11. The authorities below, however, rejected the entire claim of indexed cost of improvement primarily on the ground that supporting bills and vouchers pertaining to construction and improvements carried out in financial years 1986-87, 1996-97 and 2006-07 were not produced by the assessee. In our considered opinion, once the existence of the constructed area and superstructure stands admitted and corroborated from the registered sale deed dated 14.12.2016 itself and further accepted by the stamp valuation authority while determining valuation of the property, the claim of the assessee regarding cost of construction and improvements could not have been rejected in entirety merely because old bills and vouchers pertaining to construction undertaken decades ago were not available. The Assessing Officer has also not brought any material on record to establish that no construction or improvement whatsoever had been carried out by the assessee over the years, despite the existence of a residential structure measuring 3300 square feet.

12. In our considered opinion, the approach adopted by the lower authorities in disallowing the entire indexed cost of acquisition/improvement is neither justified nor in consonance with settled principles governing the computation of capital gains. It is common knowledge that, in cases involving old constructions and improvements carried out several decades earlier, complete preservation of bills and vouchers may not always be possible. The claim of the assessee, therefore, cannot be discarded merely for want of complete documentary evidence, particularly when the chronology of acquisition and investments in the property stands duly demonstrated from the material placed on record. The assessee had

acquired the plot in the financial year 1985-86, carried out substantial construction in the financial year 1986-87, thereafter made further improvements in the financial years 1996-97 and 2006-07 and ultimately sold the constructed residential property on 14.12.2016. These facts sufficiently establish that the property was not a vacant plot but a developed residential house property having substantial construction thereon.

13. Considering the entirety of facts and circumstances of the case, we deem it appropriate to direct the Assessing Officer to recompute the cost of construction and indexed cost of improvement by taking into consideration the covered area of 3300 square feet mentioned in the registered sale deed dated 14.12.2016 and by applying the applicable PWD rates prevailing during the respective financial years in which acquisition, construction and improvements were carried out, namely financial years 1985-86, 1986-87, 1996-97 and 2006-07. The Assessing Officer shall thereafter grant consequential benefit of indexation in accordance with law while computing the long-term capital gains. Thus, the assessee's ground of appeal is allowed for statistical purposes.

14. Issue relating to deduction under section 54.

15. We have thoughtfully considered the rival submissions and carefully examined the material available on record. It is an undisputed fact emerging from the documentary evidence placed before the authorities below that subsequent to the sale of the residential property situated at House No.156, Sector 33-A, Chandigarh on 14.12.2016, the assessee invested the sale proceeds for the acquisition of leasehold rights in a new residential property being Unit No.098-0904, 9th Floor, Tower No.098, Amanora Park Town, Pune. The Agreement to Lease was executed on 27.07.2017 jointly in the names of the assessee and her husband Shri Gurcharan Singh Saluja. However, from the bank statements and supporting documents available on record, it

clearly emerges that the entire consideration for the acquisition of the said property was paid from the Axis Bank account of the assessee, and the source of such investment was the sale consideration received from the transfer of the original capital asset.

16. The record further reveals that a consolidated payment of Rs.2,12,81,658/- was made on 26.07.2017 towards acquisition of the leasehold residential unit from the same bank account in which the sale consideration was received . The said payment comprised a one-time premium of Rs. 1,70,22,000/- together with applicable CGST and SGST of Rs. 10,21,320/- each. Apart from that, the assessee incurred stamp duty charges of Rs. 6,81,000/- and registration charges of Rs. 30,000/- in connection with the acquisition of the property. The assessee had also made payments towards utility charges, Amanora Cluster Fund, infrastructure charges, club charges, and Amanora Environment Fund, together with the applicable taxes thereon.

17. Insofar as the allowability of these payments for the purposes of deduction under section 54 is concerned, we find that the payments towards one-time premium, GST thereon, stamp duty, registration charges, utility charges, Amanora Cluster Fund, infrastructure charges and Amanora Environment Fund are directly connected with and incidental to acquisition of leasehold rights in the residential property and therefore partake the character of cost of acquisition eligible for deduction under section 54 of the Act.

18. However, so far as club charges are concerned, we find that club membership is optional in nature and is not a mandatory condition for acquisition or enjoyment of the residential property. The payment towards club membership cannot be regarded as an expenditure intrinsically linked with the acquisition of the residential unit. Merely because such payment was collected simultaneously with other charges would not automatically render

it part of the cost of acquisition of the residential property. The club membership neither enhances the ownership rights in the property nor forms an inseparable component of the transfer or acquisition of the residential unit. Accordingly, the expenditure incurred on club charges, together with the allied taxes thereon, is held not to be eligible for deduction under section 54 of the Act.

19. At the same time, merely because the husband of the assessee was included as a joint holder in the Agreement to Lease, the substantive claim of exemption under section 54 could not have been denied or proportionately restricted once the entire source of investment stood explained and established to have emanated solely from the assessee. The Revenue has not brought any material on record to demonstrate any contribution having been made by the husband of the assessee towards the acquisition of the Pune property. Therefore, in light of the judicial precedents relied upon by the assessee and considering the factual matrix of the present case, we hold that the assessee is entitled to a deduction under section 54 in respect of the entire eligible investment made by her in the acquisition of the new residential property, excluding only the amount attributable to optional club membership charges and related taxes thereon

20. We find that there is no dispute regarding the fact that the entire investment in the new residential property was made by the assessee out of her own funds. The only reason for restricting the deduction by the authorities below is that the property was purchased jointly in the names of the assessee and her husband. In our considered view, the issue is no longer res integra. The Hon'ble Karnataka High Court in the case of CIT vs. Jennifer Bhide and Hon'ble Delhi High Court in the case of CIT vs. Ravinder Kumar Arora have categorically held that where the entire investment in the new residential property has been made by the assessee, deduction under section 54 cannot be denied merely because the property has been purchased jointly

with a spouse or another family member. The substance of the transaction and the source of investment are material considerations, not mere inclusion of a joint name in the title documents.

21. In the present case, the Revenue has not disputed that the investment in the new residential property emanated from the assessee's own funds arising from sale of the original asset. Therefore, in our considered opinion, the authorities below were not justified in restricting the deduction merely because the husband of the assessee was shown as a joint holder in the agreement to lease. Accordingly, the restriction imposed by the Assessing Officer and sustained by the ld. CIT(A) is hereby deleted, the amount attributable to optional club membership charges and related taxes thereon is upheld

22. In the result, the appeal of the assessee is partly allowed for statistical purposes in terms indicated hereinabove.

Order pronounced on 20/05/2026

Sd/-	**Sd/-**
कृणवन्त सहाय	**ललित कुमार**
(KRINWANT SAHAY)	**(LALIET KUMAR)**
लेखा सदस्य/ ACCOUNTANT MEMBER	**न्यायिक सदस्य /JUDICIAL MEMBER**

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar