

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

**BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**ITA No. 318/DEL/2025
Asstt. Yr: 2012-13**

Chandi Ram Sahajwani through Dinesh Kumar Legal Heir C/o Krishan Lal Kalra, Adv., 857-858/8, Sethi Chowk, Panipat-132103. PAN: AGOPS 1130 R	<u>Vs</u>	Income Tax Officer, Ward-1, Panipat.
APPELLANT		RESPONDENT
Assessee represented by	None	
Department represented by	Shri Rajesh Kumar Dhanesta, Sr. DR	
Date of hearing	09.09.2025	
Date of pronouncement	06.11.2025	

ORDER

PER Ms. MADHUMITA ROY, JM:

The instant appeal filed by the assessee is directed against the order passed by the Ld. CIT(A)/NFAC, Delhi dated 19.12.2024 arising out of the order dated 24.12.2019 passed by the Income Tax Officer, Ward-1, Panipat, under Section 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for Assessment Year 2012-13.

2. None appeared on behalf of the assessee inspite of notice being sent. It appears from the record that previously also the assessee was never represented

whenever the matter was fixed for hearing and called. Thus, having no other alternative we have proceeded to dispose of the instant appeal ex parte.

3. Facts, in brief, as emerging from the record are that an information was available with the department that the assessee had sold an immovable property for a consideration of Rs. 1,01,00,000/-. Notice u/s 148 dated 29.03.2019 was issued and, in response, the assessee submitted that long term capital gains (LTCG) on sale of the property comes to Rs. 51,73,052/-. Thereafter, as per assessee's submission, he purchased residential house in Noida on 11.05.2012 for a consideration of Rs 47,02,000/- and commercial office space for a consideration of Rs. 13,33,475/- on 01.02.2012 and claimed exemption u/s 54F. The Assessing Officer observed that, as per documents submitted by the assessee, the residential house purchased in Noida was in the name of Sh. Raj Kumar S/o Shyam Lal, Partap Ganj, Delhi and the assessee was a nominee to Sh. Raj Kumar and not the actual owner. No bank statements or any other evidence was provided by the assessee. Accordingly, the Learned Assessing Officer completed the assessment at Rs. 54,34,501/- by disallowing the exemption claimed u/s 54F and adding Long Term Capital Gain of Rs. 51,73,052/- to the returned income vide order u/s 143(3)/147 dated 24.12.2018. In appeal the Ld. CIT(A) affirmed the action of the Assessing Officer. Aggrieved, the assessee is in appeal before us.

4. We have heard Ld. DR and perused the materials available on record. The Ld. CIT(A) has affirmed the action of the Assessing Officer, disallowing the claim of exemption under Section 54F, inter alia, by observing as under:

5.3 I have gone through the grounds of appeal, assessment order and the submissions of the appellant. Section 54F reads as under :

54F. (1) Subject to the provisions of sub-section (4), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of any long-term capital asset, not being a residential house (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 (hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—

(a) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45;

(b) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45:

Provided that nothing contained in this sub-section shall apply where—

(a) the assessee,—

(i) owns more than one residential house, other than the new asset, on the date of transfer of the original asset; or

(ii) purchases any residential house, other than the new asset, within a period of one year after the date of transfer of the original asset; or

(iii) constructs any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset; and

(b) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head "Income from house property".

The key condition to avail of the tax benefit under section 54F is to reinvest the proceeds from the sale or transfer of an asset in a new residential property. This reinvestment should take place either one year before the sale of the asset or two years (for purchase) or three years (for construction) after the sale. Further, if the assessee owns more than one residential house, other than the new asset, on the date of transfer of the original asset, these provisions are not applicable.

5.3.1 If any one brought any property under a sales agreement and got possession, the title of the property remains with the property owner, unless a sale deed subsequently has been executed and registered. So, a title of a property can only be transferred by a sale deed. In the absence of a duly registered and stamped sale deed, no interest, title or right in immovable property, accrue to the property's buyer.

5.3.2 In the appellant case, no details of house owned by the appellant were filed. Though notice u/s. 133(6) was issued to M/s. Granite Gate Properties P Ltd. asking for some information in respect of owners / ownership of the aforementioned property and copy of account of assessee in their books of accounts etc. but no reply was received in this regard from the company. The appellant has filed the copy of the bank statement to establish that the payments were made from the account of the appellant. But in order to claim the deduction u/s. 54F, the appellant should be the owner of the property. The appellant has not filed the copy of the sale deed even during the course of appellate proceedings. Therefore, I have no reason to interfere with the decision of the Assessing officer and accordingly, the decision of the assessing officer is upheld and the addition of Rs. 51,73,052/- is upheld. Ground No. 2 of this appeal is dismissed.

4.1 The assessee is found to have not filed any details of the house owned by him. Further that the notice under Section 133(6) issued to the M/s Granite Gate

Properties P. Ltd., asking for information in respect of owners/ownership of the property and also the copy of the accounts of the assessee in their books of account but nothing was furnished. The assessee furthermore though in order to establish that payment was made from his account submitted the bank account but has not been able to justify the ownership of the property in order to claim deduction under Section 54 of the Act and in that view of the matter, in the absence of any assistance rendered by the assessee even before us, the order passed by the Ld. Assessing Officer and affirmed by the Learned First Appellate Authority is found to be just and proper so as not to warrant any interference. Thus, order of Ld. CIT(A) is affirmed.

5. Assessee's appeal ITA No. 318/Del/2025 is dismissed.

Order pronounced in open court on 06.11.2025.

Sd/-

(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Dated: 06.11.2025.

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(MS. MADHUMITA ROY)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI