

**आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'बी', मुंबई ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B", BENCH MUMBAI**

**BEFORE SHRI R.C.SHARMA, AM  
&**

**SHRI SANDEEP GOSAIN, JM**

**आयकर अपील सं./ITA No.3443/Mum/2013**

**(निर्धारण वर्ष / Assessment Year :2008-2009)**

Madhav Ramchandra Karode, C/o M.R.Karode & Company, B- 10, Nandham Indl. Estate, Marol Maroshi Road, Andheri(E), Mumbai-400059	Vs.	ITO-20(2)(2)-2, Mumbai
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AARPK 0271 G</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by : Shri Subodh Ratnaparkhi

राजस्व की ओर से /Revenue by : Shri Aarsi Prasad

सुनवाई की तारीख / Date of Hearing : **10/09/2015**

घोषणा की तारीख/Date of Pronouncement **08/12/2015**

**आदेश / O R D E R**

**PER R.C.SHARMA (A.M):**

This is an appeal filed by the assessee against the order of CIT(A), Mumbai, dated 28-3-2013, for the assessment year 2008-2009, in the matter of order passed u/s.143(3) of the I.T.Act.

2. The assessee has taken nine grounds of appeal, but the only grievance of the assessee relates to declining of claim of deduction u/s.54F in respect of 50% of the capital gains accrued on sale of residential house.

3. Rival contentions have been heard and record perused. During the assessment proceedings, the AO observed that the assessee had claimed exemption against capital gains from the sale of property at Chanchal Niwas. The AO further noted that the deed of purchase

reflected the name of the assessee's son Shri Ashok Karode first, followed by the name of assessee as the second holder. He then disallowed the claim placing reliance on the decisions rendered in the cases of Jai Narayan Vs. ITO, 306 ITR 335(P&H) and Prakash Vs. ITO (2008) 173 Taxmann 311 (Bom) and observing that in order to qualify for exemption the asset should be in the name of the assessee only.

4. By the impugned order the CIT(A), allowed 50% of deduction on the plea that in the new house so purchased the assessee has also included the name of his son. Against this order of CIT(A) the assessee is in further appeal before us.

5. We have considered rival contentions, carefully gone through the orders of the authorities below. There is no dispute with regard to sale and investment of the sale proceedings in the new house property. Since the assessee has bought the house in which name of his son was included, the CIT(A) has declined 50% of assessee's claim. The issue is squarely covered by the decision of Hon'ble Karnataka High Court in the case of Mrs. Jennifer Bhide, 349 ITR 80 and also by the decision of Hon'ble Delhi High Court in the case of Ravinder Kumar Arora, 342 ITR 38. In the case of Mrs. Jennifer Bhide (supra), the Hon'ble Karnataka High Court held that exemption u/s.54/54EC cannot be denied to the assessee, who has purchased the property, where it is found that sale proceeds of residential property was invested in a new residential property, merely on the ground that assessee has included name of her son in the new property. Similarly, the Hon'ble Delhi High Court in the case of Ravinder

Kumar Arora (supra), held that assessee having invested the entire amount of long term capital gains in purchase of new residential house was entitled to exemption under S.54F in respect of the entire amount even though the new property was purchased in the joint names of assessee and his wife. The case relied by the AO in the case of Prakash Vs. ITO, 173 Taxmann 311, is distinguishable on facts, insofar as in that case the assessee has not purchased the new house in his name.

6. In view of the above discussion, respectfully following the decision of Hon'ble High Court, we do not find any merit in the action of the CIT(A) for declining 50% of claim u/s.54F. Accordingly the AO is directed to allow deduction u/s.54F with respect to the entire amount of investment made in the new house taken in his name along with the name of his son. We direct accordingly.

7. **In the result, appeal of the assessee is allowed, in terms indicated hereinabove.**

Order pronounced in the open court on this 08/12/2015.

**Sd/-**  
**(SANDEEP GOSAIN)**

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated 08/12/2015

प्र.कु.मि/pkm, नि.स/ PS

**आदेश की प्रतिलिपि अद्योषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A), Mumbai.
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

**Sd/-**  
**(R.C.SHARMA)**

लेखा सदस्य / ACCOUNTANT MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार  
(Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई /  
ITAT, Mumbai