

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
AHMEDABAD SMC BENCH, AHMEDABAD**

**[Coram: Pramod Kumar AM]**

I. T. A. No.360/Ahd/2016  
Assessment Year: 2012-13

**Chhayaben Mahendrabhai Patel,** .....**Appellant**  
*8, Ramyakunj Society,  
Naroda,  
Ahmedabad.  
[PAN : AKIPP 3233 C]*

**Vs.**

**Income Tax Officer,** .....**Respondent**  
**Wad 7(2)(1), Ahmedabad.**

**Appearances by:**

**None for the appellant**  
**Ila Parmar for the respondent**

Date of concluding the hearing: 24.08.2017  
Date of pronouncing the order: 28.08.2017

**O R D E R**

1. This appeal, filed by the assessee, is directed against learned CIT(A)'s order dated 5<sup>th</sup> September 2015, for the assessment year 2012-13.
2. Grievance of the appellant is that the learned CIT(A) has erred in law and on facts in upholding the disallowance by the learned Assessing Officer of statutory deduction under section 54F of the Act, amounting to Rs.15,00,000/-.
3. I have heard the learned Departmental Representative, and perused the records.
4. I have noted that the Assessing Officer has declined section 54F benefit to the assessee, in computation of taxable capital gains, even though the investment was made in the new residential property within prescribed limit, as the amount was not kept in a separate account before the time limit for filing of income tax return under section 139(1) expired. This objection is not valid for two reasons . first, because, as held by

Honorable Karnataka High Court in the case of CIT vs. K. Ramachandra Rao [(2015) 120 DTR 72 (Kar)], in a case in which investment is made in the new residential property within prescribed time limit, this requirement of keeping the money in specified account does not come into play; and . second, because, as held by Honorable Punjab & Haryana High Court, in the case of CIT vs. Jagriti Aggarwal [(2011) 339 ITR 610 (P&H)], time limit referred to section 54F covers time limit under section 139 (4) as well. I have noted that the authorities below have relied upon the Tribunal decision in the case of ITO vs. Rosamma Korah [(2015) 171 TTJ 692 (Cochin)] but the Tribunal did not have benefit of Honorable Karnataka High Court's views in the case of K. Ramachandra Ro (supra). In the hierarchical judicial system that we have, the direct decisions of Honorable Courts above are to be followed by the Tribunal. I do so and uphold the the plea of the assessee. I direct the Assessing Officer to delete the impugned disallowance.

5. In the result, the appeal is allowed. Pronounced in the open court today on the 28<sup>th</sup> day of August 2017.

Sd/-

**Pramod Kumar**

(Accountant Member)

**Dated: Ahmedabad, the 28<sup>th</sup> day of August, 2017.**

**PBN/\***

Copies to:                   (1)    The appellant                   (2)    The respondent  
                                  (3)    CIT                                       (4)    CIT(A)  
                                  (5)    DR                                       (6)    Guard File

By order

Assistant Registrar  
Income Tax Appellate Tribunal  
Ahmedabad benches, Ahmedabad