

आयकर अपीलीय अधिकरण , ' ए ' न्यायपीठ,चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, CHENNAI**

श्री एन. आर. एस .गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्यके समक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकरअपीलसं/.I.T.A. No. 365/Chny/2018

निर्धारणवर्ष/Assessment Year : 2013-14

Shri Rangabashyam Thirumalai,
167, Thambu Chetty Street,
Chennai – 600 001.

Deputy Commissioner of Income Tax,
Vs. Non-Corporate Circle -12(1),
Chennai – 600 006.

[PAN: AACPT 6860D]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

Assessee by
Revenue by

: Shri. D. Anand, Advocate
: Shri G.D. Jayanthi Angayarkanni, JCIT

सुनवाईकीतारीख/Date of Hearing

: 29.08.2018

घोषणाकीतारीख/Date of Pronouncement

: 04.10.2018

आदेश/ ORDER

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-13, Chennai in ITA No. 28/CIT(A)-13/13-14 dated 29.09.2017 for assessment year 2013-14.

2. Shri. Rangabashyam Thirumalai, the assessee, sold a plot in Hosur for Rs. 92,89,200/-, out of which he paid Rs. 82 lakhs to the builder, M/s. Ozone Projects Pvt. Ltd., for purchasing a flat at Koyambedu for a tentative consideration of Rs. 1,26,51,971/- and invested Rs. 11 lakhs in CGAS, 1988 Scheme before filing his return. He claimed deduction u/s. 54F for Rs. 88,25,742/-. The AO refused to allow this claim for the reason that the assessee has entered into an agreement for purchase of flat which is under construction, has not produced any occupancy certificate regarding the new asset and hence, the assessee is not entitled for the claim of deduction u/s. 54F at Rs. 88,25,742/-. Aggrieved, the assessee filed an appeal before the Ld. CIT(A). Although, the assessee has produced a copy of agreement for the purchase of flat entered into with M/s. Ozone Projects Pvt. Ltd., copies of bank accounts, wherein, the amount of payment to the builder is reflected and relied on various High Court decisions, the Ld. CIT(A), inter alia, has held that since the assessee has not purchased a residential house or completed the construction of habitable house before the due date of furnishing the return, the assessee failed to establish his case and hence he dismissed the appeal.

3. Aggrieved, the assessee filed this appeal relying on the Mumbai ITAT decision in ITA No. 7512/Mum/2013 dated 19.08.2015 and this tribunal decision in ITA No. 3520/Mad/1989 dated 25.04.1996. The assessee pleaded that when the sale proceeds of the capital asset stood invested in the construction of a residential house within the stipulated period, the assessee

should be entitled to relief u/s. 54F and completion of construction or occupation is not essential in view of CBDT Circular Nos. 471, dated 15.10.1986 and 672, dated 16.12.1993. Per contra, the DR supported the orders of the lower authorities.

4. We heard the rival submissions. From the above facts, it is clear that there is no dispute on the fact that out of the sale consideration, the assessee has paid Rs. 88,25,742/- to M/s. Ozone Projects Pvt. Ltd., towards purchase of a flat at Koyambedu, which is under construction. Thus, the assessee has complied with the requirement of section 54F of the Act. In the light of the precedents, relied on by the assessee, supra, we find no reason to deny the claim u/s. 54F. We direct accordingly.

5. In the result, the assessee's appeal is allowed.

Order pronounced on Thursday, the 04th day of October, 2018 at Chennai.

Sd/-

(एन.आर.एस .गणेशन)

(N.R.S. GANESAN)

न्यायिकसदस्य/Judicial Member

Sd/-

(एसजयरामन)

(S. JAYARAMAN)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 04th October , 2018

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent

4. आयकरआयुक्त/CIT 5. विभागीयप्रतिनिधि/DR

3. आयकरआयुक्त) अपील(/CIT(A)

6. गार्डफाईल/GF