

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

' B' BENCH : CHENNAI

श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष

एवं एस जयरामन, लेखा सदस्य

**BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER &
SHRI S.JAYARAMAN, ACCOUNTANT MEMBER**

I.T.A.No.2040/Chny/2017

Assessment year : 2012-13

Shri Kasi Viswanathan Vs. Ramnathan,
Plot No.1,SWATHI,Rajakilpakkam
Saraswathi Nagar,Main Road,
Chennai 600 073.

[PAN AGIPR 0543 H]

(अपीलार्थी/Appellant)

Income Tax Officer,
Non Corporate Ward -16(4),
Chennai 600 034.

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mr.K.Vignesh,C.A

प्रत्यर्थी की ओर से /Respondent by

: Mr.A.Sundararajan,Addl.CIT D.R

सुनवाई की तारीख/Date of Hearing

: 05-03-2020

घोषणा की तारीख /Date of Pronouncement

: 29-05-2020

आदेश / O R D E R

PER S.JAYARAMAN, ACCOUNTANT MEMBER

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-4, Chennai in ITA No.47/205-16/A.Y2012-13/CIT(A)-4, dated 27.06.2017 for the assessment year 2012-13.

2. Shri Kasi Viswanathan Ramnathan, the assessee is a salaried individual. The assessee along with legal heirs received his share on sale of property made on 23rd December, 2011, but he received on the consideration on 16.01.2012. The assessee acquired a land for ₹.59,95,000 on 05.03.2012 and constructed a residential property on the same within the time stipulated under Section 54F of the Act and claimed deduction under Section 54F in the return filed for assessment year 2012-13. The A.O restricted the exemptions to the expenses incurred till 31.07.2012, as the assessee failed to invest unutilized portion in Capital Gains Deposit Scheme. Aggrieved against the order of Ld. A.O., the assessee preferred an appeal before the CIT(A). The learned CIT(A) dismissed the appeal. Aggrieved against that order, the assessee filed this appeal before the Tribunal.

3. The Ld. A.R. submitted that assessee invested the capital gains within the time stipulated under Section 54F of the Act. The assessee out of abundant caution also filed his return of income within the due date specified under Section 139(1) of the Act claiming exemption under Section 54F of the Act including the amount which had not been utilized before 31.07.2012. The assessee utilized the entire sale consideration in the construction of the building within the

time limit specified under Section.54F of the Act. The Ld. A.R. relied on the following case laws:

- i) Hon'ble Karnataka High Court in the case of C.I.T Vs. Shri K.ramachandra Rao reported in [2015] 56 taxmann.com 163(Karnataka)
- ii) Mumbai Tribunal in the case of Kishore, [2012] 24 taxmann.com 11
- iii) Hon'ble Madras High Court in the case of Venkata Dilip Kumar [2019] 111 taxmann.com 180(Madras)

Further, the Ld. A.R. pleaded that the assessee's appeal be allowed.

4. Per contra, Ld. D.R. supported the orders of the lower authorities.

5. We have heard the rival submissions and perused the material available on record. After examining the facts and case laws relied on by the assessee, we find that mere non compliance of a procedural requirement under Section 54(2) itself cannot stand in way of assessee in getting benefit under Section 54, if he is, otherwise, in a position to satisfy that mandatory requirement under Section 54(1) is fully complied with within time limit prescribed therein. Therefore, we direct the A.O. to allow the total investments made by the assessee under Section 54F of the Act after satisfying whether the impugned

investment was utilized for the construction of the house within the time limit specified under Section 54F of the Act.

6. In the result, the appeal of assessee is treated as allowed for statistical purposes.

Order pronounced on 29th May, 2020 at Chennai.

Sd/-
(धुव्वुरु आर.एल रेड्डी)
(DUVVURU RL REDDY)
न्यायिक सदस्य/JUDICIAL MEMBER

Sd/-
(एस जयरामन)
(S. JAYARAMAN)
लेखा सदस्य/Accountant Member

चेन्नई/Chennai

दिनांक/Dated: 29th May,2020.

K S Sundaram

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF