

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "B", BANGALORE**

Before Shri George George K, JM & Shri B.R.Baskaran, AM

ITA No.667/Bang/2017 : Asst.Year 2013-2014

Sri Arun Kumar B M #37, I A Cross, Udayaravi Veerappa Road Hanumanthnagar Bangalore - 560 019. PAN : AHDPA9846L.	v.	The Income Tax Officer Ward 5(3)(5) Bengaluru.
(Appellant)		(Respondent)

Appellant by : Sri.L.Bharath C.A.
Respondent by : Sri.Priyadarshi Mishra, JCIT-DR

Date of Hearing : 03.11.2020	Date of Pronouncement : 03.11.2020
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ORDER

Per George George K, JM :

This appeal was originally disposed of by the ITAT vide its order dated 19.02.2020. However, the assessee filed M.A.No.74/Bang/2020 to recall the Tribunal order, insofar as the issue regarding to deduction u/s 54EC of the I.T.Act. The Tribunal vide its order dated 21.08.2020 in MA No.74/Bang/2020, recalled its earlier order dated 19.02.2020, insofar as the issue concerning deduction under section 54EC of the I.T.Act. Accordingly, this case was heard today, i.e., on 03.11.2020.

2. The brief facts of the case are as follow:

The assessee is an individual and employee of M/s.Tata Consultancy Services Limited. During the relevant assessment year, the assessee sold a plot on 20.03.2013 for Rs.2,25,00,000 and declared Rs.83,102 as long term capital gains. The assessee had claimed the following claim of deductions:-

- (i) deduction u/s 54F of the I.T.Act by depositing Rs.1,22,00,000 in the capital gains account scheme on 31.07.2013 towards purchase of a new residential property.
- (ii) deduction u/s 54EC of the I.T.Act by investing Rs.1,00,00,000 in REC Bonds amounting to Rs.50 lakh each on 31.03.2013 and 31.07.2013, respectively, within six months from the date of transfer.

3. The assessment was completed u/s 143(3) of the I.T.Act vide order dated 26.02.2016. In the said assessment order, the claim of deduction u/s 54EC of the I.T.Act was restricted to Rs.50 lakh instead of Rs.1 crore claimed by the assessee. The Assessing Officer held that the assessee is required to invest Rs.50 lakh in REC Bonds in any financial year. The Assessing Officer also relied on the amendments made to section 54EC of the I.T.Act vide Finance Act, 2014 w.e.f. 01.04.2015.

4. Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal to the first appellate authority. The CIT(A) confirmed the view of the Assessing Officer in restricting the claim of deduction u/s 54EC of the I.T.Act to Rs.50 lakh.

5. Aggrieved, the assessee has filed this appeal before the Tribunal. The learned Counsel for the assessee submitted that Rs.1 crore has been invested within six months from the date of sale of the asset, which has given rise to long term capital

gains. Accordingly, it was submitted that prior to the amendment to section 54EC of the I.T.Act w.e.f. 01.04.2015, the assessee was entitled to the entire claim of deduction of Rs.1 crore. In this context, the assessee relied on the following judicial pronouncements:-

- (i) Ruling of Hon.Bangalore ITAT in ITO v. Umadevi Malavalli (ITA No.1718/Bang/2016 – order dated 28.07.2017)
- (ii) Ruling of Hon.Madras High Court in CIT v. C.Jaichander (370 ITR 579)
- (iii) Ruling of Hon.Bangalore ITAT in Vivek Jairabhoy v. DCIT (ITA No.236/Bang/2012 – order dated 14.12.2012)
- (iv) Ruling of Pune ITAT in ITO v. Smt.Bala R.Venkitachalam (71 taxmann.com 219).

6. The learned Departmental Representative supported the orders passed by the Income Tax Authorities.

7. We have heard the rival submissions and perused the material on record. As per the provisions of section 54EC(1) of the I.T.Act and its first proviso, it is clear that the time limit for investment is six months from the date of transfer and even if such investment falls under two financial years, the benefit claimed by the assessee cannot be denied. The amendment in Finance (No.2) Act, 2014 relates to assessment year 2015-2016 [i.e. insertion of second proviso to section 54EC(1)] and the same applies prospectively for and from assessment year 2015-2016. A similar view as held by the following judicial pronouncements:-

- (i) Hon.Madras High Court in CIT v. C.Jaichander (370 ITR 579)
- (ii) Shri Vivek Jairazbhoy v. DCIT (International Taxation) (ITA No.236/Bang/2012 – order dated 14.12.2012)
- (iii) DCIT v. Borkatte Ganapathi Hegde (ITA No.964/Bang/2016)

8. Since the assessee had invested Rs.1 crore in two different financial years and within six months from the date of transfer of the capital assets, the limit of Rs.50 lakh is per financial year. Hence, the assessee is eligible for deduction of Rs.1 crore u/s 54EC of the I.T.Act. It is ordered accordingly.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced on this 03rd day of November, 2020.

Sd/-
(B.R.Baskaran)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 03rd November, 2020.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-5, Bengaluru.
4. The Pr.CIT-5, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore