

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES : BENCH "B" HYDERABAD**

**(Through Video Conference)**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER  
AND  
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**I.T.A. No. 1096/Hyd./2017  
A.Y : 2009-10**

Smt. Durdana Khatoon  
Hyderabad

vs. ACIT,  
Circle 6(1)  
Hyderabad

[PAN: AGMPK8547N]

(Appellant)

(Respondent)

For Assessee: Shri P. Murali Mohana Rao, C.A.  
For Revenue: Sri Rohit Mujumdar, D.R.

Date of Hearing : 17/06/2021  
Date of Pronouncement : 12 /07/2021

**ORDER**

**PER S.S. GODARA, J.M.**

This Assessee's appeal for A.Y. 2009-10 arises against the CIT(A)-1, Hyderabad's order dated 28.02.2017 passed in case no. 229/2014-15, involving proceedings u/s 143(3) of the Income Tax Act, 1961 [ in short 'the Act'].

Heard both the parties. Case file perused.

2. The assessee's sole substantive grievance raised in the instant appeal in light of her main grounds no. 1 to 7 challenges correctness of both the lower authorities' action disallowing her sec.54F deduction claim of Rs.22,27,524/- in the course of assessment framed on 28.12.2011 and

upheld in the CI(T(A)'s order. A perusal of the instant case file further suggests that the assessee has also filed her petition dated 18.2.2021 inter alia pleadings 8<sup>th</sup> to 12<sup>th</sup> substantive grounds as well. Her case is that she is rather entitled for sec.54F deduction for having sold her residential house property during the relevant PY giving rise to long term capital gains which stand re-invested in yet another similar nature of capital asset. She has also quoted the CBDT's circular issued way back on 11.04.1955 that the field authorities should recover only legitimate income tax than taking advantage a tax payer's ignorance of law.

3. The Revenue has vehemently opposed admission of assessee's foregoing additional substantive grounds that the same tend to give altogether a new texture to her already pleaded grievance of sec.54F deduction.

4. We find no merit in Revenue's foregoing technical stand. This tribunal's Special Bench in All Cargo Global Logistics Ltd. (2012) 137 ITD 26 (Mum), after taking into consideration hon'ble apex court's landmark judgement in National Thermal Power Co. Limited vs CIT (1998) 229 ITR 383 (SC), holds that we can very well entertain such an additional ground raising a legal issue so to determine correct tax liability of an assessee provided all the relevant facts are on record. Learned DR fails to dispute that whatever are the necessary particulars in the assessee's already raised claim of sec.54F deduction, apply mutatis mutandis in sec.54 relief as well.

5. Faced with this situation, we uphold both the learned lower authorities' action disallowing the assessee's sec.54F deduction claim for the reason that she owned/possessed more than one residential property which formed the primary reason for rejecting the same and direct the Assessing officer to adjudicate the same in light of the necessary conditions stipulated in sec.54 of the Act. The assessee or her authorised representative shall appear before the Assessing officer on or before 31<sup>st</sup> October, 2021 in consequential proceedings to be followed by three effective opportunities of hearing.

This assessee's appeal is partly allowed for statistical purposes in above terms.

Pronounced in Open Court on 12<sup>th</sup> July, 2021.

**Sd/-**

**Sd/-**

**(L.P. SAHU)**  
**ACCOUNTANT MEMBER**

**(S.S. GODARA)**  
**JUDICIAL MEMBER**

Dated: the 12<sup>th</sup> July, 2021.

\* gmv

Copy of the Order forwarded to:

1. Smt. Durdana Khatoon, c/o P. Murali & Co, Chartered Accountants, 6-3-655/2/3, I Floor, Somajiguda, Hyderabad 500 082, Telangana.
2. ACIT, Circle 6(1), Hyderabad
3. ACIT, Range 6, Hyderabad.
4. CIT(A)-9, Hyderabad
5. Pr.CIT-9, Hyderabad
6. DR, ITAT, Hyderabad.
7. Guard File.