

**IN THE INCOME TAX APPELLATE TRIBUNAL "B"**  
**(Virtual Court Hearing) BENCH KOLKAT**

**Before Shri Sanjay Garg, Judicial Member and Dr. M. L. Meena, Accountant Member**

**I.T.A. No.359/Kol/2020**  
Assessment Year: 2015-16

**SnigdharaniPatra.....Appellant**  
**Plot No.624, C/o- TrilochanSahoo,**  
**Mahanadi Vihar,**  
**Cuttack-751004.**  
**[PAN: AVCPP9028N]**

**vs.**

**CIT(IT & TP), Kolkata.....Respondent**

**Appearances by:**

None appeared on behalf of the appellant.

Shri Manish Kanojia, CIT (DR), appeared on behalf of the Respondent.

Date of concluding the hearing : August 03, 2021

Date of pronouncing the order : August 06, 2021

**ORDER**

**Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 11.03.2020 of the CIT(IT & TP), Kolkata (hereinafter referred to as 'CIT') passed u/s 263 of the Income Tax Act.

2. No one has put in appearance on behalf of the assessee despite notice. Therefore, we proceed to decide this appeal ex parte of the assessee after hearing the ld. DR.

3. The assessee in this appeal has agitated against the exercise of revisionary jurisdiction by the Ld. CIT u/s 263 of the Income Tax Act.

4. The brief facts of the case are that the Ld. CIT noted from the assessment records that the assessee had shown long term capital gain of Rs.1,21,76,044/- after claiming deduction u/s 54EC and u/s 54F of the I.T. Act at Rs.50,00,000/- and Rs.1,15,27,551/- respectively. The claim of cost of improvement to the property in respect of some of the items was disallowed by the Assessing officer and the long-term capital gain was

recomputed at Rs.3,17,51,644/-. The deduction u/s 54EC and 54F of the Income Tax Act was allowed for Rs.50,00,000/- and Rs.1,29,08,995/- respectively.

5. The Id. CIT observed that the provisions of section 54F had not been properly applied by the Assessing Officer. The assessee claimed exemption u/s 54F amounting Rs.1,15,27,551/- towards investment in a flat in the return of income. Subsequently, during the course of scrutiny assessment, an enhanced claim for exemption u/s 54F for Rs.1,39,05,008/- was made before the Assessing Officer. The Assessing Officer allowed exemption u/s 54F amounting to Rs.1,29,08,995/-. He further observed that during the course of assessment proceedings, the documents/bills/vouchers, pertaining to the claims regarding expenditure on "new Investments" were not produced for verification before the Assessing Officer. The Assessing Officer relied merely on the statement of New Investment of Rs.1,40,53,358/- furnished by the assessee without making any further enquiry. He, therefore, held that the deduction u/s 54F was erroneously allowed by the Assessing Officer without necessary verifications and investigations.

He also observed that the assessee did not deposit the amount of capital gains in a capital gain account before the due date of the filing of the return as per the relevant provisions of the Act. He, therefore, issued notice u/s 263 to the assessee as to why the order of the Assessing Officer was not set aside being erroneous and prejudicial to the interest of the Revenue.

6. In reply to the show-cause notice, the assessee explained that the due date of the filing of the return was extended by the CBDT and that the new investment was made before the due date of the filing of the return. Therefore, the claim was allowable u/s 54F of the Act. It was further submitted that all the details including bills and vouchers etc. relating to the investment were duly submitted before the Assessing Officer and that the Assessing Officer after due verification of the evidence relating to the investments made has rightly allowed the claim.

7. The Id. CIT however observed from the record the the bills/receipts relating to below mentioned n items were not produced:

SI No.	Vendor	Description	Date	Amount(Rs.)	Supporting Receipts
21	Cassette AC	Upgrade to cover more area	Aug-15	33000	Receipt not available
22	Bath RM door	Glass Door-Advance-1	July-15	20000	Receipt not available
		Glass Door-Advance-2	July-15	20000	Receipt not available
		Glass Door-Advance-2	Aug-15	20000	Receipt not available
		Glass Door-Last payment	Sept-15	21000	Receipt not available
23	Balcony Grill	Advance-1 Rs.150000	Aug-15	26000	Receipt not available
		Advance-2 Rs.11000			
24	Geysers	Water heaters	Aug-15	29250	Receipt not available
25	Painter	Advance-1	Aug-15	15000	Receipt not available
		Advance-2	Aug-15	15000	Receipt not available
26	Contractor-2	Bathroom door marble	Aug-15	2000	Receipt not available
		Total		201250	

8. The ld. CIT further observed that even during the revision proceedings u/s 263 of the Act, the assessee could not furnish corroborating evidences of investment in respect of items as mentioned above. He, therefore, held that the assessee did not produce all the relevant details and supporting evidences. He accordingly held that the order passed by the Assessing Officer was erroneous and set aside the assessment order on the issue of deduction u/s 54F and directed the Assessing Officer to pass afresh in this respect.

9. Being aggrieved by the said order of the ld. CIT passed u/s 263 of the Act, the assessee has come in appeal before us.

10. The ld. DR has contended that the order of the CIT is well-explained order and that the Assessing Officer did not properly examine the bills/vouchers/receipts

relating to the investments made by the assessee in a new flat to claim deduction u/s 54F of the Income Tax Act.

11. However, a perusal of the impugned order of the CIT reveals that after thoroughly examining the details and evidences furnished by the assessee during the revision proceedings u/s 263 of the Act, the Ld. CIT could not point out much discrepancy except about some small payments on account of small improvements such as bath room door, balcony grill, geysers, painter etc. totalling to Rs.2,01,250/- as against the total allowance claimed of Rs.1,39,05,008/-. Moreover, in respect of the items mentioned by the ld. CIT, the assessee himself had mentioned before the Assessing Officer that the receipts about the said items were not available. However, the nature of the items and the small investments made in that respect, in our view, cannot be doubted as the assessee has duly furnished the details and evidences relating to the investments made and the same were duly examined by the Ld. CIT himself, however, the Ld. CIT could not point out any major discrepancy. In our view, the Ld. CIT has wrongly exercised this revision jurisdiction u/s 263 in this case. In our view, no useful purposes will be served for re-assessment on this issue when the details etc. have already been examined by the the Ld. CIT and no error has been found in the order of the Assessing Officer. In view of this, the impugned order of the Ld. CIT is set aside and the order of the Assessing Officer is restored. The appeal of the assessee stands allowed.

12. In the result, the appeal of the assessee is allowed.

Order is pronounced in the open court on 06.08.2021.

Sd/-  
**[Dr. M. L. Meena]**  
**Accountant Member**

Sd/-  
**[SanjayGarg]**  
**Judicial Member**

Dated:.08.2021.

RS

*Copy of the order forwarded to:*

1. SnigdharaniPatra
2. CIT(IT & TP), Kolkata
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Sr.PS/D.D.O, Kolkata Benches