

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'SMC' BENCH,
NEW DELHI [THROUGH VIDEO CONFERENCE]

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER

ITA No. 6142/DEL/2018
[Assessment Year: 2015-16]

Smt. Beer Mati
H.No. 29, Village Sarangpur
New Delhi

Vs.

The I.T.O
Ward - 43(2)
New Delhi

PAN: BCRP 3678 G

[Appellant]

[Respondent]

Date of Hearing : 13.09.2021

Date of Pronouncement : 13.09.2021

Assessee by : Shri Kapil Goel, Adv

Revenue by : Shri R.K. Gupta, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - 15, Delhi dated 27.06.2018 pertaining to assessment year 2015-16.

2. The assessee has raised as many as 10 grounds of appeal but the at the very outset, the solitary ground which was argued by the ld. counsel for the assessee before me relates to the claim of exemption u/s 54F of the Income tax Act, 1961 [hereinafter referred to as 'The Act' for short].

3. The ld. counsel for the assessee vehemently argued that the Assessing Officer, after examining the computation of capital gains, never questioned the claim of exemption u/s 54F of the Act nor any show cause notice was issued for denial of the same.

4. The ld. CIT(A) confirmed the denial of exemption.

5. I have carefully perused the assessment order and the order of the first appellate authority. It is true that at Para 5.2, the Assessing Officer has considered long term capital gains of Rs. 13,18,040/- and referred to the claim of exemption u/s 54F of the Act. But I do not find any show cause notice nor any query by which the Assessing Officer asked the assessee why the exemption should not be denied.

6. The order of the first appellate authority is also devoid of any such query. Therefore, in the interest of justice and fair play, I deem it fit to restore this issue to the file of the Assessing Officer with a direction to examine the claim of exemption u/s 54F of the Act and the assessee is directed to furnish necessary documents in support of the claim. Needless to mention, the Assessing Officer shall afford reasonable opportunity of being heard to the assessee.

7. In the result, the appeal filed by the assessee in ITA No. 6142/DEL/2018 is allowed for statistical purposes.

The order is pronounced in the open court on 13.09.2021.

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 13th September, 2021.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	