

THE INCOME TAX APPELLATE TRIBUNAL
"G" Bench, Mumbai
Shri B.R. Baskaran (AM) & Shri Rahul Chaudhary (JM)

I.T.A. No. 1927/Mum/2022 (A.Y. 2012-13)

Zeenat Ali Mohamed Latif 198, Kamberkar Street 5 th Floor, Room No. 35 Zulekha Manzil Mumbai-400 003. PAN : AHCPL7572P (Appellant)	Vs.	ITO, Ward 17(3)(5) Room No. 131 1 st Floor, Kautilya Bhavan, BKC Bandra East Mumbai-400 051. (Respondent)
---	-----	--

Assessee by	None
Department by	Shri A.K. Das
Date of Hearing	17.11.2022
Date of Pronouncement	21.11.2022

ORDER

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 8.6.2022 passed by the learned CIT(A), National Faceless Appeal Centre, Delhi and it relates to A.Y. 2012-13.

2. The assessee is aggrieved by the decision rendered by the learned CIT(A) on following issues :

- a) Disallowance of claim made under section 54F of the Act.
- b) Non granting of self assessment tax of Rs. 10,00,000/-.

3. None appeared on behalf of the assessee even though the notices were sent by the Registry on more than one occasion. Hence, we proceed to dispose of the appeal ex-parte, without presence of the assessee.

4. We have heard learned DR and perused the record. First issue relates to disallowance of deduction claimed under section 54F of the Act. The assessee has claimed to have invested a sum of Rs. 50,07,275/- towards

purchase of flat No. 2011, Burj Ashrafi. The above said payments have been made to M/s. Classic Corporation. The Assessing Officer noticed that two sons of the assessee are partners in the above said concern, i.e. in M/s. Classic Corporation. Further, it was seen that the assessee has not taken possession of the property and could not furnish copy of the sale deed hence the Assessing Officer rejected the claim for deduction under section 54F of the Act.

5. Before the learned CIT(A), the assessee submitted that the payment has been made towards purchase of the flat only. However the construction could not be completed by the builder due to various problems. Since the assessee has invested the funds in purchase of flat that is going to be constructed, it was claimed that the deduction under section 54F should be allowed. The learned CIT(A) was not convinced with the submissions made by the assessee. Accordingly, he confirmed the order of the Assessing Officer in rejecting the claim for deduction under section 54F of the Act.

6. We noticed that the assessee has furnished details of payment made to the M/s. Classic Corporation and also unregistered "Agreement for sale" evidencing proposal of the assessee to purchase a flat that is going to be constructed. Before the Assessing Officer the assessee could not furnish relevant details as the construction was not started/completed. We noticed that the tax authorities have rejected the claim on the reasoning that the assessee could not furnish relevant details and she has not taken possession of the flat. In effect, it appears that the tax authorities have doubted the genuineness of transactions, since the investment has been made in the concern belonging to the sons of the assessee.

7. In our view, the AO should have conducted further enquiries, if he is doubting the genuineness of transactions. It is in the common knowledge of everyone that the real estate projects are many times obstructed by various kinds of problems. If the non-completion of construction is not attributable

to the assessee, we find no reason to reject the claim for deduction u/s 54F of the Act, if otherwise, investment made by the assessee for purchase of flat is found to be genuine. Under these circumstances, in our view and in the interest of justice, the assessee may be provided with one more opportunity to present her case before the Assessing Officer. The AO may also conduct further enquiries to ascertain genuineness of transactions before rejecting outright without any basis. We also make it clear that it is the responsibility of the assessee to show that the payments were made towards purchase of flat only.

8. Accordingly, we set aside the order passed by the learned CIT(A) on this issue and restore the same to the file of the Assessing Officer for examining the claim of the assessee afresh. The assessee also directed to furnish required information/explanation to substantiate its claim made under section 54F of the Act.

9. The next issue relates to non-credit of self assessment tax Rs. 10 lakhs. Since this is factual aspect, which requires verification at the end of the Assessing Officer, we restore this issue to the file of the Assessing Officer.

10. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 21.11.2022.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

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

Mumbai; Dated : 21/11/2022

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)

4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

PS

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai