

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 446/CHNY/2022

निर्धारण वर्ष/Assessment Year: 2012-13

**Shri Gopal Srinivasan,**  
No.29, Jayalakshmi Estates,  
Haddow's Road,  
Nungambakkam,  
Chennai – 600 006.

**The ACIT,**  
Vs. Corporate Circle 6(2),  
Chennai

**PAN: AADPG 9543P**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri R. Vijayaraghavan, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri R. Clement Ramesh Kumar, CIT

सुनवाई की तारीख/Date of Hearing

: 27.09.2023

घोषणा की तारीख/Date of Pronouncement

: 27.09.2023

**आदेश /ORDER**

**PER MAHAVIR SINGH, VP:**

This appeal filed by the assessee is arising out of Revision order passed by the Principal Commissioner of Income Tax, Chennai in Order No.ITBA/REV/F/REV5/2021-22/1042287189(1) dated 31.03.2022. The assessment was framed by the ACIT, Corporate Circle 6(2), Chennai for the assessment years 2012-13 u/s.143(3)

r.w.s. 147 of the Income Tax Act, 1961 (hereinafter 'the Act'), vide order dated 13.11.2019.

2. The only issue in this appeal of assessee is as regards to the revision order passed by PCIT u/s.263 of the Act revising the assessment framed by AO u/s.143(3) r.w.s. 147 of the Act dated 13.11.2019 for the reason that the AO has wrongly allowed the claim of deduction u/s.54F of the Act to the extent of Rs.59,29,775/-. For this, assessee has raised various grounds which are argumentative and factual and hence, need not be reproduced.

3. Brief facts are that the assessee sold land at Koramangala in Bangalore on 01.04.2011 and computed long term capital gains of Rs.3,52,75,966/-. The assessee claimed exemption u/s.54F of the Act on account of long term capital gains arising out of sale of this property for the assessment year 2010-11 amounting to Rs.2,37,15,192/-. The assessee after reducing the indexed cost of acquisition computed long term capital gains for assessment year 2012-13 at Rs.2,44,31,747/- and claimed deduction u/s.54F of the Act amounting to Rs.2,37,15,192/- after offering excess difference amounting to Rs.7,16,555/- as long term capital gains. During the assessment year 2012-13, the assessee reduced the indexed cost of

acquisition resulting into long term capital gains at Rs.3,51,11,210/- against which deduction was claimed u/s.54F of the Act amounting to Rs.97,86,577/-. The AO after verifying in detail, the details of investment, amount invested year-wise and the amount investment in new property namely 'Adarsh Retreat Villa' restricted the claim of deduction at Rs.59,29,775/- as against claim made by assessee at Rs.97,86,577/-, thereby the AO disallowed the claim of deduction u/s.54F of the Act amounting to Rs.38,56,802/-, which is pending in appeal before CIT(A).

4. The PCIT on perusal of assessment records/proceedings issued show-cause notice for revising the assessment u/s.263 of the Act vide dated 12.03.2022 for the relevant assessment year 2012-13 by holding that the AO has wrongly allowed the claim of deduction u/s.54F of the Act to the extent of Rs.59,29,775/- inspite of proper investment made by assessee in purchase or constructed since 27.12.2006 and inspite of payment made more than 3 years after the original date of purchase. Therefore, according to PCIT, the AO has allowed the claim of deduction u/s.54F of the Act without any proper verification and without going into the provisions of section 54F(1)(b) of the Act. The PCIT finally set aside the assessment on

this issue and directed the AO to verify the claim of deduction u/s.54F of the Act by observing in para 6 & 7 as under:-

*“6. The submissions filed by the assessee company are carefully considered and verified with records. It is seen that the construction of the house for which deduction u/s.54F claimed was started in the year 2006. It is not clear, how many units/flats/villas were constructed. It is also seen that he has claimed deduction u/s.54F for A.Ys 2010-11 and 2012-13 which amounts to claim of deduction u/s.54F for different Assessment Years for the same property.*

*7. From the above, it is clear that the Assessee had claimed deduction u/s.54F property in different financial years which against the provisions of that section. It is also difficult to understand, how the Assessee is claiming capital gain deductions under Section 54F for a property for which construction was started in 2006. As the Assessing Officer had not obtained these information during the assessment and allowed deduction u/s.54 without verifying these particulars, the assessment is clearly erroneous and prejudicial to the interest of the revenue. Hence, I hereby set aside the assessment to the file of the Assessing Officer to examine all the details such as details of asset/sale deed of properties, whether he claimed deduction in any other earlier Assessment Year and the number of units/flats/villas he constructed etc., after affording reasonable opportunities of being heard to the Assessee. If he is found claiming ineligible benefits, the Assessing Officer shall initiate appropriate penalty and prosecution proceedings also.”*

Aggrieved, assessee came in appeal before the Tribunal.

5. We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee has sold land on 01.04.2011 and assessee spend a sum of Rs.97,86,577/- towards construction of villa and claimed deduction u/s.54F of the Act. The AO after going into the issue and details of construction as

well as payments made towards the same, restricted the claim of deduction u/s.54F of the Act amounting to Rs.59,29,775/- as against claimed by assessee at Rs.97,86,577/-, thereby the AO applied his mind to the facts of the case and disallowed the excess claim of deduction at Rs.38,56,802/-, which is subject matter of appeal before CIT(A). We noted that the AO has applied his mind to the facts of the case and taken a conscious decision and view, which is permissible as per law. We find no reason for the PCIT to interfere in the same and held that the order of AO is erroneous and prejudicial to the interest of Revenue because we could not find any error or prejudice caused to Revenue. Hence, we reverse the order of PCIT and quash the same. The appeal of the assessee is allowed.

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

Order pronounced in the open court on 27<sup>th</sup> September, 2023 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 27<sup>th</sup> September, 2023

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त /CIT

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.