

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

महनीय श्री मनोज कुमर अग्रवाल, लेखक सदस्य एवं  
महनीय श्री मनु कुमर गिरि, न्यायिक सदस्य के समक्ष।  
**BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND HON'BLE SHRI MANU KUMAR GIRI, JM**

**आयकर अपील सं. ITA No.3284/Chny/2019**  
**(निर्धारण वर्ष / Assessment Year: 2016-17)**

<b>Shri Velayutham Surya Narayanan</b> L 1201/39, 29 <sup>th</sup> Cross Street, Thiruvalluvar Nagar, Thiruvanmiyur Extn. Chennai-600 041.	<b>बनम/</b> Vs.	<b>ITO</b> Non-Corporate Ward-15(5) Chennai.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. <b>APFPS-6907-N</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri N. Arjun Raj (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri AR V Sreenivasan (Addl.CIT)-Ld. Sr. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	09-05-2024
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	03-06-2024

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2016-17 arises out of the order of learned Commissioner of Income Tax (Appeals)-15, Chennai [CIT(A)] dated 18-10-2019 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 27-12-2018. The grounds raised by the assessee read as under:-

1. The order of the Commissioner of Income Tax (Appeals) -15, Chennai dated 18.10.2019 in I.T.A.No.98/CIT(A)-15/2018-19, for the above mentioned Assessment Year is contrary to law, facts, and in the circumstances of the case.
2. The CIT (Appeals) erred in sustaining the action of the Assessing Officer in denying exemption/deduction u/s 54F of the Act pertaining to the reinvestment in the name of the appellant's wife without assigning proper reasons and justification.
3. The CIT(Appeals) failed to appreciate that having complied with the conditions prescribed for making the claim for exemption/deduction u/s 54F of the Act, the sustenance of the disallowance of such claim of exemption/deduction was wholly unjustified especially in view of the wrong reasoning of the absence of direct/live nexus between the sale consideration and the amount re-invested.
4. The CIT (Appeals) failed to appreciate that having noticed the creation of the new asset in compliance with the provisions of Section 54F of the Act, the action of the Assessing Officer in denying the exemption/deduction u/s 54F of the Act on the technical ground shown was wrong, erroneous, unjustified, incorrect and not sustainable in law.
5. The CIT (Appeals) failed to appreciate that having not disputed the eligibility of exemption/deduction u/s 54F of the Act on the re-investment made in the name of appellant's wife, imposing the artificial condition of utilisation of the same money for reinvestment while overlooking the decision of the Jurisdictional High Court should be reckoned as bad in law.
6. The CIT (Appeals) failed to appreciate that the provisions of section 54F of the Act would permit an assessee to re-invest in a new asset one year prior to the sale of the original asset thereby vitiating the need for live/direct nexus of reinvesting the sale consideration received for creating the new asset while further ought to have appreciated that in the absence of such condition in the statute, the sustenance of the disallowance of claim for tax exemption/deduction u/s 54F of the Act was wrong, erroneous, unjustified, incorrect and not sustainable in law.
7. The CIT (Appeals) failed to appreciate that the judgment of the Jurisdictional High Court in the case reported in **407 ITR 1** would fortify the stand of the Appellant thereby vitiating the related findings at Para 6.5 of the impugned order.
8. The CIT(Appeals) failed to appreciate that there was no proper opportunity given before passing the impugned order and any order passed in violation of the principles of natural justice is nullity in law.

As is evident, the sole issue that fall for our consideration is to determine assessee's' eligible to claim deduction u/s 54F.

2. The Ld. AR advanced arguments supporting the case of the assessee and relied on various judicial decisions to submit the as per liberal construction, impugned deduction would be available to the assessee. The Ld. Sr. DR, on the other hand, supported the orders of lower authorities and submitted that the investment was not made as per

statutory mandate. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

### **Assessment Proceedings**

3.1 It emerges that the assessee sold vacant land measuring 5267 sq. ft. at Neelangarai for Rs.184 Lacs on 12-08-2015. Against the same, the assessee claimed deduction u/s 54F for Rs.162.30 Lacs on the ground that the assessee purchased a residential property situated at Pudupakkam Village vide sale deed dated 04-05-2016 for purchase of land for Rs.70.50 Lacs and construction agreement dated 25-03-2016 for Rs.84.47 Lacs with M/s Isha Homes (India) Pvt. Ltd. for construction of a villa on the said land.

3.2 However, upon perusal of relevant documents, it was noted by Ld. AO that the said deed as well as construction agreement was in the name of assessee's wife Smt. Vijayalakshmi. It further transpired that that Smt. Vijayalakshmi was sanctioned loan of Rs.126 Lacs by The Karur Vysya Bank Ltd. It was thus seen that the property was purchased in exclusive name of assessee's wife who was separately assessed to tax. Accordingly, Ld. AO proceeded to deny the impugned deduction to the assessee. The assessee relied on various judicial decisions in support of impugned deduction. However, the same could not find favor with Ld. AO who referred to the decision of Chennai Tribunal in D. Devadass (ITA No.2047/Mds/2015 dated 07-04-2016) while arriving at such a conclusion. In this case law, such deduction was denied since the investment was made by the assessee in the name of unmarried daughter. Finally, the impugned deduction was denied to the assessee and an assessment was framed raising certain demand against the

assessee. The Ld.CIT(A) concurred with the stand of Ld. AO. Aggrieved, the assessee is in further appeal before us.

### **Our findings and Adjudication**

4. We find that basic facts and relevant dates are not in dispute. The assessee fulfills all the other eligibility conditions to claim the deduction u/s 54F except for the fact that the new investment has been made in the name of his wife. As per the provisions of Sec.54F, the assessee could purchase new house within a period of one year before or two years after the date on which the transfer has taken place. Alternatively, the assessee could construct new house within a period of three years from the date of transfer. In such a scenario, in our considered opinion, there is no requirement that the same sale proceeds should have been utilized to make the new investments. In fact, in a case, where the assessee purchases new house within one year before the date of transfer, he would not be in a position to utilize the same sale proceeds which would accrue to him in future. Therefore, this logic of lower authorities that the same money should have been utilized to make the new investments does not find our acceptance. The decision of Hon'ble High Court of Madras in the case of **C. Aryama Sundaram (97 Taxmann.com 74)** supports our view.

5. Another objection of the revenue is that the investment has been made in the name of assessee's wife out of Bank Loan. It is settled position that the provisions of Sec.54F are beneficial provisions and should be given a liberal construction to the maximum extent possible. The Ld. AR has placed on record bank statements of the assessee on page nos. 101 of the paper book. It could be seen that the assessee himself has paid an amount of Rs.20 Lacs to the builder on 22-03-2016

towards cost of construction of new property. The various payments to sub-registrar have also been paid on 24-03-2016 from the same bank account. The same lend certain credence to the claim of the assessee. The assessee and his wife would have commonality of interest to make investment in new house. Under these peculiar facts, we are of the considered opinion that the assessee would be eligible to claim the said deduction. We order so. The decision of Hon'ble High Court of Delhi in **CIT v. Ravinder Kumar Arora [2011] 15 Taxmann.com 307** supports our view. In this case, the investment was made by the assessee jointly with his wife. The Ld. AO restricted the deduction to the extent of 50%. However, Tribunal allowed full deduction and Hon'ble High Court upheld the action of Tribunal. We are of the considered opinion that similar ratio would apply here. Therefore, we direct Ld.AO to allow the claim of the assessee.

6. The appeal stand allowed in terms of our above order.

*Order pronounced on 3<sup>rd</sup> June, 2024*

Sd/- (MANU KUMAR GIRI) न्यायिक सदस्य / JUDICIAL MEMBER	Sd/- (MANOJ KUMAR AGGARWAL) लेखक सदस्य / ACCOUNTANT MEMBER
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चेन्नई Chennai; दिनांक Dated : 03-06-2024  
DS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT Chennai
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF