

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A", MUMBAI**

**BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER**

**AND**

**SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER**

**ITA NO. 867/MUM/2024 (A.Y: 2016-17)**

<b>AASHNA PRAKASH ROCHLANI</b> 501, Turning Point 501 Turning Point, 1 & amp 16 Khar Danda Road, Khar(w) Mumbai - 400052, Maharashtra  <b>PAN: ABBPG3558K</b> <b>(Appellant)</b>	v.	<b>ITO-Ward 22(1)(1)</b> Piramal Chamber Lal Baug, Parel Mumbai - 400012 Maharashtra  <b>(Respondent)</b>
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<b>Assessee Represented by</b>	:	<b>Shri S.D. Chheda</b>
<b>Department Represented by</b>	:	<b>Shri Harmesh Lal</b>
<b>Date of conclusion of Hearing</b>	:	<b>04.06.2024</b>
<b>Date of Pronouncement</b>	:	<b>04.06.2024</b>

**ORDER**

**PER NARENDRA KUMAR BILLAIYA (AM)**

1. This appeal by the assessee is preferred against the order dated 09.02.2024 by National Faceless Appeal Centre, Delhi [hereinafter in short "Ld. CIT(A)"] pertaining to A.Y.2016-17.

2. The grievance of the assessee read as under: -

"1) The learned CIT (A) has erred in law and in facts to confirm action of AO to disallowing exemption of Rs.50,00,000/- u/s 54EC.

2). *The learned CIT (A) has erred in law and in facts by not considering judicial pronouncements submitted before himself for exemption u/s 54EC.*

3). *The learned CIT(A) has erred in Law and fact to confirm action of AO not to rework deduction u/s 54F.*

4) *The appellant craves leave to add, alter or withdraw any of the grounds of appeal."*

**3.** Briefly stated the facts of the case are that the, assessee filed return of income on 29.07.2016. The return was selected for limited scrutiny under CASS and accordingly statutory notices were issued and served upon the assessee.

**4.** During the course of the scrutiny assessment proceedings the assessee was asked to justify the claim made under section 54EC of Income-tax Act, 1961 (in short "Act"). The assessee explained that she had transferred the property at Nashik on 06.06.2015 for a consideration of ₹.7.50 Crores which was jointly held and her share of capital gains were worked out at ₹.3,39,77,935/-. Assessee made investment in REC bonds amounting to ₹.50 lakhs on which she claimed exemption under section 54EC of the Act. The Assessing Officer found that this investment in REC bonds was made after six months from the date of transfer. Drawing support from the provisions of section 54EC of the Act the Assessing Officer disallowed the claim as the investment was made much later than six months from the date of transfer.

**5.** Assessee agitated the matter before the Ld. CIT(A) but without any success. Before the Ld. CIT(A) it was contended that since the assessee had not received the consideration she was not in a position to make the investment. Reliance was also placed on certain judicial decisions which do not find any favour with the Ld. CIT(A) who confirmed the assessment. In alternative, the assessee made a claim under section 54F of the Act on the proportionate amount of sale consideration invested by the assessee on purchase of new property. This alternative claim was dismissed by the Ld. CIT(A) stating that the same should have been made through a revised return.

**6.** Before us, the counsel vehemently reiterated what has been stated before lower authorities. The Ld. DR strongly supported the findings of the Assessing Officer.

**7.** We have given a thoughtful consideration to the orders of the authorities below. There is no dispute that the assessee transferred the impugned property on 06.06.2015 and invested ₹.50 lakhs on 30.06.2016. There is no dispute that the investment made by the assessee was after more than six months from the date of transfer of the capital asset which is in violation of provisions of section 54EC of the Act. The contention of the assessee that she received the consideration

later on and was not in a position to invest for want of financials cannot be accepted as the assessee received ₹.2.27 crores as her share of consideration up to 24.02.2016 and ₹.51.67 lakhs before 20.06.2015. The assessee had sufficient funds to make the impugned investment for the claim of exemption. Therefore, all the decisions relied upon by the counsel are misplaced on facts of the case.

**8.** However, the claim of exemption under section 54F of the Act cannot be brushed aside lightly, therefore, in the interest of justice and fair play, we restore this issue to the file of the Assessing Officer. The Assessing Officer is directed to verify the claim of exemption under section 54F of the Act as per the relevant provisions of the law, after affording a reasonable and adequate opportunity of being heard to the assessee.

**9.** In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 04<sup>th</sup> June, 2024.

**Sd/-**  
**(SANDEEP SINGH KARHAIL)**  
**JUDICIAL MEMBER**

Mumbai / Dated 04.06.2024  
Giridhar, Sr.PS

**Sd/-**  
**(NARENDRA KUMAR BILLAIYA)**  
**ACCOUNTANT MEMBER**

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)  
**ITAT, Mum**