

**THE INCOME TAX APPELLATE TRIBUNAL  
“E” BENCH, DELHI**

**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER &  
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 3909/Del/2023  
(Assessment Year 2015-16)**

Manjula Sethi L-42A Lajpat Nagar-II New Delhi- 110024	Vs.	Addl./Joint/Deputy/Assistant Commissioner of Income Tax/ITO, National Faceless Assessment Centre, Delhi
स्थायीलेखासं. / जीआइआरसं. / PAN/GIR No: AATPS7572E		
Appellant	..	Respondent

Appellant by :	Sh.Rajiv Khandelwal, CA
Respondent by :	Sh. Amit Katoch, Sr. DR

Date of Hearing	10.12.2024
Date of Pronouncement	10.12.2024

ORDER

**PER MADHUMITA ROY, JM:**

The instant appeal filed by the assessee is directed against the order dated 15.11.2022 passed by the National Faceless Appeal Centre (NFAC) arising out of the order dated 29.03.2022 passed by the Addl./Joint/Deputy/Assistant Commissioner of Income Tax/ITO, National Faceless Assessment Centre, Delhi for Assessment Year 2015-16.

2. The appeal is barred by limitation for 380 days. The assessee has preferred an application for condonation of delay. The order passed by the Ld. CIT(A) dated 15.11.2022 was served upon the assessee through electronic media but the assessee being a housewife, since does not open the Income Tax portal on regular basis was not aware of such order uploaded in website and only in the month of May 2023 she could come to know about the impugned order being uploaded when she logged in the e-portal for the purpose of filing the ITR. The explanation so rendered by the assessee in the application for condonation of delay seems to be genuine and the delay is, thus, condoned.

3. The assessee has claimed exemption of Rs.5,18,39,518/- under Section 54F of the Act by purchasing a residential house lying and situated at PH-2, Sun Court Apartment, Tower-1, Greater Noida for a consideration of Rs.520,00,000/- out of the total amount of Rs.5,23,32,741/- earned as LTCG. She claimed exemption under Section 54F of the Act on said amount of Rs.5,18,39,518/- towards purchase of the above residential property and the balance amount of RS.4,93,223/- has been offered to tax under the head LTCG.

4. According to the Ld. AO, since the assessee has not fulfilled all the conditions to avail the benefit under Section 54F of the Act, the assessee could not be granted the relief and hence proceeded against the assessee by reopening of assessment under Section 147 of the Act. Notice under Section 148, therefore, was issued to the assessee dated 30.03.2021. The said reassessment proceeding was finalized upon making addition of the entire amount of Rs.5,18,39,518/- which was in turn confirmed by the Ld. CIT(A). Hence, the instant appeal.

5. The Ld. AO was not satisfied to the explanation given by the assessee in respect to the payment made by the assessee towards the purchase of property made from M/s Comet Energy Solutions Pvt. Ltd. and with the following observations appearing at page No. 15 & 16 of the Assessment Order, the addition has been made:

“3. Enquiries made by the AO as sequel to information collected/received: The assessee had not submitted statement of affair to justify the treatment of the above transaction in her books of accounts. In the absence of the same, it is clear from the above table that assessee had paid only Rs.2,71,00,000/- (Rs.4,95,00,000/- - Rs.2,24,00,000/- = Rs. 2,71,00,000/-) to M/s Comet Energy Solutions Pvt. Ltd. as against the total agreed sum of Rs.5,20,00,000/-. Further, the assessee had filed only copy of agreement to sale but the evidence of making full consideration to transferor and evidence of possession was not filed by the assessee till the date of assessment. In view of the above, the transfer of property from M/s Comet Energy Solutions Pvt. Ltd. to the assessee is neither established in accordance with the provisions of the Income Tax Act, 1961 nor in accordance with the provisions of section 53A of the "Transfer of Property Act." It is clear that the assessee had not purchased a new asset which is mandatory to claim exemption u/s 54F of the I.T. Act, 1961. Therefore, the exemption u/s 54F is not allowable to the assessee.

2.1 The assessee, in its reply, filed her submission. The main points are reproduced below:

“...It s humbly submitted that the assessee was having two accounts with comet Energy Solutions India (P) Ltd i.e. one account n respect of purchase of residential property from the said company and second account was loan account of the assessee with Comet Energy Solution India Pvt. Ltd. The said loan account was duly reflected in the Audited Financials of Comet Energy Solution India (P) Ltd and duly been disclosed in the Tax Audit Report of the said company separately. Further please note that the transactions of the sale of property was duly been disclosed in the Audited Financials of Comet Energy Solution India (P) Ltd in the year ended 31/03/2015 and due taxes were paid on the sale of property by Comet Energy Solutions India (P) Ltd. Accordingly, the deduction u/s 54F was rightly claimed by the assessee...."The assessee also filed some documents in support of its submission.

2.3 The assessee's submission has been gone through. But documents submitted by the assessee do not subscribe to the view points of the assessee. Hence the assessee's contention is not tenable. Therefore it is not accepted. Hence deduction allowed for an amount of Rs.5,18,39,518 /- u/s 54F is disallowed and added back to the Total Income of the assessee. Penalty proceeding u/s 271(1)(c) is initiated for furnishing inaccurate particulars of income.”

6. At the time of hearing of the matter the Ld. Counsel for the assessee submitted before us that the assessee duly filed the copy of agreement to sale and details of full considerations paid in respect of such purchase of property and also the possession letter before the Ld. AO but the same are being reflected otherwise in the order passed by the Ld. AO. The Ld. AO, therefore, came to a conclusion that the purchase of property from M/s Comet Energy Solutions Pvt. Ltd. by the assessee is neither established in terms of the provision of the Act nor in accordance with the provision of the Section 53A of the Transfer of Property Act, 1882. Finally, the AO was of the opinion that the assessee has not purchased the new asset which is mandatory to claim exemption under Section 54F of the Act and thus, the exemption so claimed by the assessee was not found to be allowable.

7. In this regard, the Ld. AR drew our attention to the agreement to sale dated 13.10.2014 appearing at pages 3 - 6 of the paper book filed before us and also the possession letter and bills of Airtel & Indraprasth Gas Limited appearing from pages 21 - 25 of the paper book in order to establish the purchase made by the assessee in terms of the agreement to sale entered into by and between the assessee, as the purchaser and M/s Comet Energy Solutions Pvt. Ltd. as the vendor for a consideration of Rs.5,20,00,000/- and the assessee further took over possession of the said property. The date wise details of such payments made by the assessee is annexed at page 7 of the paper book along with copy of the Andhra Bank statement through which the payments were made to the vendor appearing from pages 8 to 20 of the paper book. It is noted that the entire details has been explained by the assessee again before us with such corroborative evidence being the bank statement contents whereof has not been objected by the Ld. DR. It was further submitted by

the Ld. AR that the assessee was having two accounts with M/s Comet Energy Solutions Pvt. Ltd.; one in respect of the purchase of the residential property from the said company and the second account was the loan account of the assessee with the said Private Limited Company, the loan account was duly reflected in the audited financials of M/s Comet Energy Solutions Pvt. Ltd. and had been duly disclosed in the tax audit report of the said company separately. The transaction which has been disputed by the Ld. AO in regard to the sale of property was also duly been disclosed in the audited financials of M/s Comet Energy Solutions Pvt. Ltd. in the year ended 31.03.2015 and due taxes were paid on the sale of such property by the said company. In that view of the matter the deduction under Section 54F was rightly claimed by the assessee as was the crux of the submission made by the Ld. AR.

8. We have heard the rival submissions made by the respective parties. We have further perused the relevant materials available on record and particularly perused the details of payment made by the assessee to the tune of Rs.5.20 crores towards purchase of property made by the assessee from M/s Comet Energy Solutions Pvt. Ltd. which is supported by the Andhra Bank Statement through which the payment were made appearing at pages 17-20 of the Paper Book. The genuineness of the transactions and the payment made therein in terms of the agreement entered into between the assessee and M/s Comet Energy Solutions Pvt. Ltd. dated 13.10.2014 appearing at pages 3-6 of the paper book has not been able to be controverted by the Ld. DR. Further that, we find that the aspect of the loan account of the assessee lying with the said M/s Comet Energy Solutions Pvt. Ltd. reflected in the audited financials of the said company and duly been disclosed in the tax audit report by the said company and the transaction made by the

assessee with the said company in regard to the sale of property duly been disclosed in the audited financials of M/s Comet Energy Solutions Pvt. Ltd. in the year ended 31.03.2015 and payment of taxes made on sale of such property by the said company, though made known to the Ld. AO which is further reproduced by the Ld. AO in his order the claim of exemption under Section 54F of the Act has been denied by the Ld. AO. Neither any contrary document is in the possession of the revenue reflected in the said order in order to justify such rejection of the claim under Section 54F of the Act made by the assessee and the addition made thereon is, thus, found to be totally unjustified, bad in law.

9. Having regard to the entire aspect of the matter, as the assessee is found to be eligible for such claim made under Section 54F of the Act, the order passed by the Ld. AO is found to be not sustainable in the eyes of law and, thus, quashed. The addition made therein is, therefore, deleted.

10. The appeal of the assessee is allowed.

Order pronounced in the open court on 10.12.2024

Sd/-  
(Renu Jauhri)  
ACCOUNTANT MEMBER

Sd/-  
(Madhumita Roy )  
JUDICIAL MEMBER

Dated 10.12.2024

PS: Rohit

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI