

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

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT  
AND  
MS ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.1563/PUN/2024  
Assessment Year : 2015-16**

DCIT, Circle – 7, Pune	<b>Vs.</b>	Kruti Lalitkumar Jain 10 <sup>th</sup> Floor, Kumar Business Centre, Bund Garden Road, Bund Garden, Pune – 411001
		<b>PAN: AFXPJ2261C</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri Nikhil S Pathak  
Department by : Shri Amol Khairnar CIT-DR  
Date of hearing : 09-12-2024  
Date of pronouncement : 30-12-2024

**ORDER**

**PER R.K. PANDA, VP :**

This appeal filed by the Revenue is directed against the order dated 05.03.2024 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2015-16.

2. Facts of the case, in brief, are that the assessee is an individual and derives income from salary and long term capital gain. She filed her return of income on 28.08.2015 declaring total income of Rs.70,36,800/- after claiming deduction under Chapter VI-A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'). The case was selected for scrutiny under CASS to verify the large deductions claimed u/s 54B, 54C, 54D, 54G, 54GA, etc. of the Act. Accordingly, statutory notices u/s 143(2) and 142(1) of the Act were issued and served on the

assessee, in response to which the AR of the assessee appeared before the Assessing Officer from time to time and filed the requisite details.

3. During the course of assessment proceedings the Assessing Officer noted that the assessee has shown sale consideration of Rs.10 crores on which long term capital gain has been computed at Rs.6,55,84,209/- after deducting the indexed cost of acquisition of Rs.3,07,79,191/- and sales expenses of Rs.36,36,600/-. From the details furnished by the assessee, the Assessing Officer noted that the assessee has sold developmental rights to M/s. Kumar Matunga Projects LLP vide development agreement dated 29.12.2014 for Rs.7.5 crores. The assessee has also sold the lease rights to Shri Paresh Dedhia and Shri Jayesh Dedhia vide agreement dated 03.09.2014 for Rs.2.5 crore. Thus, the assessee has received Rs.10 crores from the sale of development rights and lease rights. On this sale, long term capital gain is worked out at Rs.6,55,84,209/- and the same amount is claimed being invested for purchase of house property. He, therefore, asked the assessee to substantiate the claim of deduction u/s 54F of the Act by submitting a copy of purchase deed which was shown as investment in house property. The assessee was also asked to submit whether the residential house is purchased or newly constructed and submit the documentary evidence to establish that the investment has been made for purchase of residential house and the same is acquired / possessed by the assessee.

4. The assessee in response to the same filed a copy of the Ledger account showing the payments made of Rs.10.60 crores to Kumar Housing Corporation Ltd. for purchase of house. However, no documentary evidence of purchase of house from Kumar Housing Corporation was submitted. From the verification of the details from the bank account, the Assessing Officer noted that the assessee has received the payments from the sale of rights in immovable properties and most of the amount was transferred to Shri Lalit Jain and subsequently, the amount has been returned by Shri Lalit Jain on 22.08.2015 and 24.08.2015. After receipt from Shri Lalit Jain, the assessee has transferred Rs.10.6 crores to Kumar Housing Corporation Ltd. on various dates and claimed the same as investment for purchase of the house. The assessee submitted a copy of the MoU dated 21.08.2015 in support of the investments made for purchase of residential house. From the MoU, the Assessing Officer noted that the MOU is not a registered document and hence does not carry any evidentiary value. The MOU is in between Kumar Housing Pvt. Ltd and the assessee. As per the MOU, Kumar Housing Corporation Ltd is having 3/4<sup>th</sup> undivided share in the property situated at General Thimaiya Road, Camp Pune (House No.2409. Survey no 390/2533). It was claimed that Smt. Leela Gaur has entered into an oral agreement dated 21.02 1995 for sale of 1/4<sup>th</sup> share in the property. This transfer of 1/4<sup>th</sup> right to Kumar Hosing Corporation Pvt. Ltd. in this property is disputed and the suit in this regard is pending before the Civil Court of Civil Judge, Senior Division Pune. These facts according to the Assessing Officer clearly show that the rights claimed by Kumar Housing Corporation Pvt Ltd in the above property are itself disputed and the suit in this regard has been pending since

1995. However, the rights in disputed property of Kumar Housing Corporation Pvt Ltd has shown to have been transferred to the assessee by the MOU dated 21.06.2015. As per the extract from the General Land Registrar, Cantonment Board Pune generated on 15.09.2014, the holder of the occupancy rights of this property are with Dr. Vimal M Randive, Dr. Veena P Damale. Dr. Sheela Gharpure and Smt. Leela K Gharpure. Thus, this extract shows that Kumar Housing Corporation Pvt Ltd was not having full rights transferred to its name. Kumar Housing Corporation Pvt Ltd was not the owner of the disputed property. In spite of this fact that the rights in the property have been disputed and the property has not been transferred in the name of Kumar Housing Corporation Pvt Ltd, the assessee has entered into an MOU to purchase the disputed property. He further noted that the Kumar Housing Corporation Ltd. is a related concern of the assessee and the same was amalgamated in Kumar Urban Development Pvt. Ltd. (KUD). 100% shares were held by the KUD. The assessee is holding 6.31% in the said company.

5. In view of the above, the Assessing Officer summarized the facts which are as under:

*“4.9 The facts of the case are summarized as under*

- 1) The assessee has claimed exemption u/s 54F of the IT Act of Rs.6,54,84,209/-*
- 2) It is claimed that the assessee has invested Rs: 10.6 crores for the purchase of house and the amount have been paid to Kumar Housing Corporation Pvt Ltd.*
- 3) Assessee has not submitted any registered document to establish that she has purchased a residential house.*
- 4) Assessee submitted a copy of MOU dated 21.08.2015 as an evidence for purchase of property.*

- 5) *This MOU dated 21.08.2015 is unregistered.*
- 6) *As per the MOU, the assessee has purchased the rights of Kumar Housing Pvt Ltd in the residential house situated at Camp, Pune.*
- 7) *As per the clauses of MOU, the rights in the house property is disputed and a Civil Suit in this regard still pending. This itself shows that Kumar Housing Corporation Ltd was not the owner of property at the time of making the MOU.*
- 8) *The assessee is holding the shares in Kumar Urban Development Pvt Ltd in which Kumar Housing Corporation Ltd is merged. The entire share of KUD are owned by the family members of the assessee.*
- 9) *The MOU dated 21.08.2015 is nothing but a document made with the family members and related concerns with the purpose to suit the assessee.*
- 10) *The MOU is nothing but a colourable device prepared with the sole purpose of evading taxes.”*

6. Relying on decisions of Hon'ble Supreme Court in the case of McDowell and Co. Ltd. (1985) 154 148 (SC), CIT vs. Durga Prasad More 82 ITR 540 (SC) and various other decisions, the Assessing Officer held that the intent of MoUs is to subterfuge and clearly defraud the revenue. According to the Assessing Officer, the assessee has diverted the money to the family concern without purchase of any residential house and the entire transaction for claiming exemption u/s 54F is manipulated and doctored. According to the Assessing Officer, since the assessee was fully aware of the fact that the said property was under dispute and the same has not been transferred to Kumar Housing Corporation Pvt. Ltd., therefore, even if it is assumed that the assessee invested the money for purchase of property, it would not have been acquired within 2 years from the date of transfer of original asset. The Assessing Officer therefore held that the assessee is not eligible for claiming exemption u/s 54F of the Act amounting to Rs.6,55,84,209/-. He accordingly disallowed the same and added the same to the total income of the assessee.

7. Before the Ld. CIT(A) / NFAC, it was submitted that the assessee had entered into an MoU with Kumar Housing Corporation Pvt. Ltd. on 21.08.2015. It was submitted that Kumar Housing Corporation Pvt. Ltd. vide Conveyance Deed dated 03.05.1995 had purchased 3/4<sup>th</sup> undivided share in the above referred property from Dr. Vimala Mahadeo Randive, Smt. Dr. Veena Pradip Damale and Smt. Dr. Sheela Shashank Katre. Thus, Kumar Housing Corporation had ownership rights of 3/4<sup>th</sup> share in the above referred property. Subsequently, Mrs. Leela Gaur had entered into an oral agreement with Kumar Housing Corporation for transfer of her 1/4<sup>th</sup> share in the said property on 21.02.1995. However, Kumar Housing Corporation subsequently came to know that Mrs. Leela Gaur was trying to assign her 1/4<sup>th</sup> share in the said property to a third party, for which Kumar Housing Corporation filed a suit against Mrs. Leela Gaur, which is still pending. It was submitted that Kumar Housing Corporation had clear title of 3/4<sup>th</sup> of the share in the said property. Since subsequently Kumar Housing Corporation merged with Kumar Urban Development Pvt. Ltd., therefore, Kumar Urban Development (P.) Ltd. had entered into sale deed on 19.04.2018 and transferred the 3/4<sup>th</sup> share to the assessee and Shri Pranay Jain.

8. So far as the allegation of the Assessing Officer that the assessee had entered into MoU with erstwhile Kumar Housing Corporation to evade taxes is concerned, it was submitted that since Kumar Housing Corporation was holding 3/4<sup>th</sup> share in the above property and the assessee purchased the same from Kumar Urban Development Pvt. Ltd., the successor company and money has been transferred

from the account of the assessee to the account of the seller and sale deed has been entered into subsequently, therefore, the Assessing Officer was not justified in denying the claim of deduction u/s 54F of the Act. Various decisions were also cited before the Ld. CIT(A) / NFAC.

9. Based on the arguments advanced by the assessee, the Ld. CIT(A) / NFAC deleted the addition by observing as under:

*“6. Adjudication:-*

*6.1 The 1<sup>st</sup> Ground of appeal taken by the appellant is*

*1. The Ld AO erred in disallowing appellants claim of Rs.6,55,84,209/- for deduction u/s 54F of the IT Act, 1961. The appellant pleads Your Honor to kindly direct the Ld AO to delete the disallowance of Rs.6,55,84,209/- of appellants claim u/s 54F of the IT Act, 1961.*

*6.2 During the course of assessment hearing the assessing officer has noted that*

*4.9 The facts of the case are summarized as under*

*1) The assessee has claimed exemption is 54F of the IT Act of Rs.6,54,84,209/-*

*2) It is claimed that the assessee has invested Rs. 10.6 crores for the purchase of house and the amount have been paid to Kumar Housing Corporation Pvt Ltd.*

*3) Assessee has not submitted any registered document to establish that she has purchased a residential house.*

*4) Assessee submitted a copy of MOU dated 21.08.2015 as an evidence for purchase of property.*

*5) This MOU dated 21.08.2015 is unregistered.*

*6) As per the MOU, the assessee has purchased the rights of Kumar Housing Pvt Ltd in the residential house situated at Camp, Pune*

*7) As per the clauses of MOU, the ¼ rights in the house property is disputed and a Civil Suite in this regard still pending. This it self shows that*

*Kumar Housing Corporation Ltd was not the owner of property at the time of making the MOU.*

*8) The assessee is holding the shares in Kumar Urban Development Pvt Ltd in which Kumar Housing Corporation Ltd is merged. The entire share of KUD are owned by the family members of the assessee.*

*9) The MOU dated 21.08.2015 is nothing but a document made with the family members and related concerns with the purpose to suite the assessee.*

*10) The MOU is nothing but a colourable device prepared with the sole purpose of evading taxes.*

*6.3 Thus the addition in the case was made as the appellant was not able to produce any registered document to establish that she has purchased a residential house.*

*6.4 During the course of appellate hearing the appellant has submitted that:*

*2.1] In this case, during the year under consideration the assessee had sold long term capital assets and had earned capital gain of Rs.6,55,84,209/-. In the return of income, the assessee claimed exemption u/s 54F of Rs.6,55,84,209/- on account of investment in residential property. The learned A.O. has discussed the issue in paras 4-4.14 of his order. According to the learned A.O., the claim made by the assessee is not correct. He has stated that the assessee has claimed exemption u/s 54F on account of purchase of residential house from Kumar Housing Corporation Pvt. Ltd. The assessee had shown total payment of Rs. 10.6 Crs. to Kumar Housing Corporation Pvt. Ltd.*

*2.2] The learned A.O. has stated that the assessee had filed an Memorandum of Understanding (MOU) entered between Kumar Housing and the assessee. He has does not carry any evidentiary value. Corporation Ltd. was having 3/4th stated that the said MOU is not registered and He has further stated that Kumar Housing undivided share in the property situated at (House No. 2409, Survey No. entered into an oral property. This property Civil General Thimaiya Road, Camp, Pune 390/2533) According to him, Smt. Leela Gaur had agreement dated 21.02 1995 for sale of her 1/4th share in the transfer of 1/4th right to Kumar Housing Corporation Pvt. Ltd. in this is disputed and the suit in this regard is pending before the Civil Court of Judge, Senior Division Pune.*

*2.3] According to the learned A.O., the above referred facts clearly shows that the rights claimed by Kumar Housing Corporation Pvt. Ltd. in the above property are itself disputed and the suit in this regard has been pending since 1995 However, the rights in disputed property of Kumar Housing Corporation Pvt. Ltd, have shown to have been transferred to the assessee by the MOU dated 21.08.2015. As per the extract from the General Land Registrar, Cantonment Board Pune generated on 15.09.2014, the holder of the occupancy rights of this property are with Dr. Vimal M Randive, Dr. Veena P Damale, Dr. Sheela*

*Gharpure and Smt Leela K. Gharpure. Thus, according to the A O this extract shows that Kumar Housing Corporation Pvt. Ltd. was not having full rights in its name Hence, he has stated that Kumar Housing Corporation Pvt. Ltd. was the owner of the disputed property and in spite of this fact, the rights in the disputed property have been transferred to the assessee by way of MOU.*

*2.4] Accordingly, the learned A.O. has stated that the unregistered MOU entered into by the assessee was only to avoid tax. According to him, the entire transaction is colourable and self-serving. The learned A.O. has also referred to certain decisions in the context of tax planning. He has also state that the assessee was aware that the said property was under dispute and the same had not been transferred to Kumar Housing Corporation Pvt. Ltd. According to the learned A.O., the assessee was not in the position to acquire the said property within a period of two years from the date of transfer of the original asset and hence, the claim of the assessee for exemption u/s 54F was not maintained. In view of above, the learned A.O. has denied the claim of exemption u/s 54F to the assessee.*

*2.5] The assessee submits that the denial of exemption u/s 54F is not justified at all. It is submitted that the assessee had entered into MOU with Kumar Housing Corporation Pvt. Ltd. It is to be noted that Kumar Housing Corporation Pvt. Ltd. had vide Conveyance Deed dated 03.05.1995 had purchased 3/4th undivided share in the above referred property from Smt. Dr. Vimala Mahadeo Randive, Smt. Dr. Veena Pradip Damale and Smt. Dr. Sheela Shashank Katre. Thus, Kumar Housing Corporation had ownership rights of 3/4th share in the said above referred property. Subsequently, Mrs. Leela Gaur had entered into an oral agreement with Kumar Housing Corporation for transfer of her 1/4 share in the said property on 21.02.1995. However, Kumar Housing subsequently, came to know that Mrs. Leela Gaur was trying to assigned her 1/4th share in the said property to a third party. Accordingly, Kumar Housing had filed the suit against Mrs. Leela Gaur which was still pending.*

*2.6] From the above, it is to be appreciated that Kumar Housing had clear title to 3/4th of the share in the said property and the dispute was only pertaining to the 1/4th share of Mrs Leela Gaur Now, as per the said MOU, which was entered into between Kumar Housing and the assessee along with her brother Shri Pranay Jain, it was agreed that the assessee and Shri Pranay Jain would purchase the entire property for a total consideration of Rs.20 Crs. It was further clarified that the assessee's share would be 75% and that of Mr. Pranay Jain would be 25%. It was further stated that the entire litigation would be settled by November, 2016. Further as per clause (1) of the MOU, it was agreed that in case, the sale deed was not executed by 31.03.2018 for the entire property, in that event, the sale deed for 3/4th share in the said property should be executed by Kumar Housing in favour of assessee and Shri Pranay Jain.*

*2.7] Now, as clarified earlier, Kumar Housing had clear title to 3/4th share in the said property. The dispute was only pending pertaining to 1/4th share of Mrs. Leela Gaur. As the said dispute could not be settled, ultimately Kumar Housing which was merge with Kumar Urban Development Pvt. Ltd. entered into sale deed on 19.04.2018 and transferred 3/4 share to the assessee and Shri*

*Pranay Jain. The copy of the sale deed is enclosed herewith. Accordingly, it is to be appreciated that ultimately, the assessee has purchased the property from Kumar Urban Development Pvt. Ltd. on the basis of the MOU which was entered into in 2015.*

*2.8] The learned A.O. has stated that the said MOU entered into by the assessee with erstwhile Kumar Housing was entered into to avoid tax. The assessee submits that this contention of the learned A.O. is not correct. It is to be noted that erstwhile Kumar Housing was having 3/4th share in the said property. It is not a case that Kumar Housing was not having any right in the property in respect of which the MOU was entered into. Finally, Kumar Urban has transferred its 3/4th share in the said property to the assessee and her brother. The assessee submits that since ultimately, sale deed has entered into wherein the title has been transferred, it is submitted that MOU entered into cannot be held to be sham. The learned A.O. has Housing had 3/4th share in the said property which was not appreciated that Kumar not disputed. The only dispute was pertaining to 1/4th share of Mrs. Leela Gaur. Now, there is no bar u/s 54F that the assessee cannot purchase a disputed property. Further, the 3/4 share which has been purchased was not disputed at all. Accordingly, the contention of the A.O. that the MOU was entered into to avoid taxes is totally incorrect*

*2.9] The learned A.O. has held that the MOU was a sham MOU since not registered. He has further stated that the assessee was aware of the respect of the said property. In para 4.13, the learned A.O. has was aware of the fact that the said property was transferred to Kumar Housing Corporation Pvt. Ltd. it was dispute in stated that the assessee under dispute and was not In this context, the assessee submits that as clarified earlier, Kumar Housing had 3/4th share in the said property by way of a valid sale deed. The dispute was regarding balance 1/4th share Now, as Kumar Housing had 3/4th share in the said property, one cannot say that it had no right title in the said property. Kumar Housing Corporation had also given possession receipt of 3/4th share in the said property to the assessee and her brother. Copy of the same is enclosed herewith and was also furnished to the learned A.O. Accordingly, the contention of the A.O., that as the said property was disputed and was not transferred to Kumar Housing is not correct because 3/4th share in the said property was owned by Kumar Housing and it had a valid title for the said property. As regards, the other contention of the learned A.O. that the MOU was unregistered it is submitted that the final sale deed has taken place which is duly registered and stamp duty has been paid.) In view of above, it is submitted that the entire transaction for purchase on property was genuine transaction and the learned A.O. has erred in stating that the transaction was sham and entered into avoid payment of tax. It is further reiterated that there is no bar to purchase disputed property for claim of exemption u/s 54F.*

*2.10] The assessee submits that as she had already paid Rs. 10.6 Crs. for purchase of the said property within the time limit prescribed u/s 54F, the claim of exemption u/s 54F is allowable. It is to be appreciated that finally the sale deed has been entered into and wherein the assessee along with her brother has purchased 3/4th share in the said property. It is submitted that all the conditions*

*laid down u/s 54F have been duly complied and hence, the claim of exemption u/s 54F may kindly be allowed.*

*Appellant further submitted reply stating that*

*1] This has a reference to your letter dated 12.02.2024 wherein Your Honour has informed us regarding calling for remand report from the learned A O. in respect of the additional evidence submitted by me. In this context, we would like to state that till date we have not received any communication from the learned A.O. However, in addition to my submission dated 08.08.2022, I am making following legal submission in respect of the claim made u/s 54F of the Act*

*2] As clarified in the earlier submission, Kumar Housing Corporation Pvt. Ltd. was owning 3/4th share in the said property which was purchased vide conveyance dated 03.05.1995. The said fact has been also mentioned in the MOU as well as the sale deed dated 19.04.2018. It is also submitted that Kumar Housing Corporation Pvt. Ltd. has given us the possession of 3/4th share vide possession receipt dated 21.08.2015. The said possession receipt was also furnished to the Assessing Officer in the course of asst proceedings. Copy of the letter with the possession receipt is filed to the Assessing Officer along enclosed herewith.*

*3] The assessee submits that she had paid the entire consideration of 3/4th share to Kumar Housing Corporation Pvt. Ltd. before the due date of filing the return of income. Now, ultimately, the assessee along with her brother has purchased the property by way of sale deed. The assessee submits that for the exemption claiming u/s 54F the money should be utilized for purchase of house property. Even if, the physical possession has not been given, the exemption can be allowed u/s 54F. For this proposition, reliance is placed on the decision of Hon'ble Karnataka High Court in the case of B. S. Shanthakumar [233 Taxmann 347]. The relevant para of the decision of Hon'ble High Court is as under-*

*"the words used in the sectioned are purchased or constructed. For such purpose, the capital gain realized should have been invested in a residential house. The condition precedent for claiming benefit under the said provision is the capital gain realized from sale of capital should have been parted by the assessee and invested either in purchasing a residential house or in constructing a residential house. If after making the entire payment, merely because a registered sale deed had not been executed and registered in favour of the assessee before the period stipulated, he cannot be denied the benefit of Section 54F of the Act. Similarly, if he has invested the money in construction of a residential house, merely because the construction was not complete in all respects and it was not a fit condition to be occupied within the period stipulated, that would not disentitle the assessee from claiming the benefit under section 54F of the Act."*

4] We would also like to state that the Assessing Officer in the order has stated that as per the extract from General Land Registrar, Cantonment Board, Pune, the holder of the Occupancy Rights are Dr. Vimal M. Randive, Dr. Veena P. Damle, Dr. Sheela Gharpure and Smt. Leela K. Gharpure. The assessee submits that this property is situated in cantonment board of Pune. The assessee acquired 3/4th share of the said property vide conveyance deed dated 03.05.1995. However, since the property is in the cantonment board area, the owner of occupancy rights is not changed and hence, the names of Dr. Vimal M. Randive, Dr. Veena P. Damle, Dr. Sheela Gharpure and Smt. Leela K Gharpure continued to be shown. It is submitted that the assessee was the owner of 3/4th share in the said property and this fact is clearly mentioned in the MOU as well as the sale deed.

5] The assessee submits that the learned A.O. has not appreciated that the possession of the property was taken and the entire consideration for 3/4th share was only paid by the assessee before filing the return of income for the year under consideration. Accordingly, the conditions laid down in section 54F have been duly complied with. In this context, reliance is placed on the decision of Karnataka High Court in the case of CIT v/s Sambandam Udaykumar [19 Taxmann.com 17] wherein it has been held once the consideration has been shown to have been invested in a residential property, fact that transactions involved in purchase or construction of such residential property are not complete in all respects would not disentitle assessee from benefit of exemption under section 54F. In view of above, the assessee submits that the claim of exemption made u/s 54F is valid and the same may kindly be allowed.

6.5 Thus as the appellant has submitted that now the sale deed is registered thus the conditions laid down in 54F have been satisfied. It further needs to be brought on record that a remand report in the case was called but it has not been received till date even after the lapse of time given to the assessing officer for filing of the remand report, thus the case is being finalized on the basis of material available on record. In view of the reply given by the appellant that since the conditions laid down in section 54F are satisfied thus the addition made is directed to be deleted. Thus the Ground of appeal of the appellant is allowed.”

10. Aggrieved with such order of the Ld. CIT(A) / NFAC, the Revenue is in appeal before the Tribunal by raising the following grounds:

1. Whether on the facts and in the circumstances of the case & in the law, the CIT (A) is correct in deleting the addition made by the AO on account of disallowance of exemption claimed by the assessee u/a 54F amounting to

*Rs.6,55,84,209/- completely disregarding the findings of the AO on the impugned issue?*

2. *Whether on the facts and in the circumstances of the case & in the law, the CIT (A) erred in holding that the assessee has fulfilled all the conditions laid down u/s 54F of the IT Act even when the assessee has grossly failed to fulfill the primary condition of purchasing the residential property within the stipulated period of two years?*
3. *Whether on the facts and in the circumstances of the case & in the law, the CIT (A) has erred in holding the date of entering into MOU i.e. 21.08.2015 as the date of purchase of property by the assessee even when registered sale deed was entered into by the assessee only on 19.04.2018, much beyond the stipulated period of 02 years?*
4. *Whether on the facts and in the circumstances of the case & in the law, the CIT (A) has erred in disregarding the decision of the Hon'ble Supreme Court in Suraj Lamps & Industries Pvt Ltd (SLP No. 13917 of 2009) wherein it has been held that registered sale deed is the only recognized mode of transfer, basis which it is evident that the date of purchase of property in the case of assessee is no before than 19.04.2018?*

11. The Ld. DR strongly challenged the order of the Ld. CIT(A) / NFAC in deleting the disallowance of deduction u/s 54F of the Act. He submitted that the assessee has claimed deduction of Rs.6.55 crores u/s 54F of the Act based on an un-registered MoU with a concern where the assessee is a shareholder. Further, the sale deed was entered into after the assessment was over and the conditions prescribed u/s 54F of the Act were not fulfilled. Referring to the decision of Hon'ble Supreme Court in the case of Suraj Lamp & Industries (P.) Ltd. vs. State of Haryana (2012) 340 ITR 1 (SC), he submitted that an immovable property can be legally and lawfully transferred / conveyed only by a registered deed of conveyance. The transactions of nature of General Power of Attorney Sales or Sale Agreement / General Power of Attorney / Will transfers do not convey title and do not amount to transfer, nor can they be recognized as valid mode of transfer

of immovable property. He accordingly submitted that in view of the non-fulfillment of all the conditions prescribed u/s 54F of the Act, the assessee is not entitled to claim deduction. He accordingly submitted that the order of the Ld. CIT(A) / NFAC be reversed and that of the order of the Assessing Officer be restored.

12. The Ld. Counsel for the assessee on the other hand while supporting the order of the Ld. CIT(A) / NFAC submitted that the assessee earned capital gain on account of sale of developmental rights to M/s. Kumar Matunga Projects LLP vide development agreement dated 29.12.2014 for Rs.7.5 crores. The assessee had also sold the lease rights to Shri Paresh Dedhia and Shri Jayesh Dedhia vide agreement dated 03.09.2014 for Rs.2.5 crore. Thus, the receipt of long term capital gain is not in dispute. It is also not in dispute that such long term capital gain which has been worked out at Rs.6,55,84,209/- is after the deduction of the indexed cost of acquisition and the expenses of Rs.36,36,600/-. Referring to pages 4 to 26 of the paper book, the Ld. Counsel for the assessee drew the attention of the Bench to the MoU with Kumar Housing Corporation Pvt. Ltd. on 21.08.2015. Referring to pages 31 to 136 of the paper book, he drew the attention of the Bench to the actual sale deed that has been registered on 21.04.2018. He submitted that the asset in question i.e. bungalow was owned by four sisters. During 1995, three sisters sold 3/4<sup>th</sup> share of the property to Kumar Housing Corporation which is also not in dispute. He submitted that the assessee has purchased the said 3/4<sup>th</sup> portion of the bungalow and claimed the deduction u/s 54F of the Act.

13. Referring to the copy of the sale deed dated 21.04.2018, the Ld. Counsel for the assessee drew the attention of the Bench to the copy of MoU which has been mentioned in the sale deed, according to which an amount of Rs.10,60,00,000/- has been paid on execution of said MoU.

14. Referring to the decision of the Hon'ble Bombay High Court in the case of CIT vs. Dr. Laxmichand Narpal Nagda (1995) 78 TAXMAN 219 (Bom), he submitted that as per the said decision, there is no requirement that the assessee should have registered the sale agreement.

15. Referring to the decision of the Hon'ble High Court of Karnataka in the case of CIT vs. Sambandam Udaykumar (2012) 19 taxmann.com 17 (Kar), he submitted that the Hon'ble High Court in the said decision has held that once it is demonstrated that consideration received on transfer of a capital asset is invested in a residential property, fact that transactions involved in purchase or construction of such residential property are not complete in all respects would not disentitle the assessee from the benefit of exemption under section 54F.

16. Referring to the decision of the Pune Bench of the Tribunal in the case of Ramdas Sitaram Patil vs. ACIT (2024) 166 taxmann.com 222 (Pune-Trib.), he submitted that the Tribunal in the said decision has held that where recital of sale deed clearly pointed out that possession of property was taken on 31.03.2015 which was within period of one year before date of sale of original asset and

covenants in sale deed executed and registered were conclusive in absence of any evidence to contrary, assessee was entitled for deduction u/s 54/54F.

17. So far as the allegation of the Assessing Officer that the assessee has entered into MoU with a company in which she is a shareholder is concerned, the Ld. Counsel for the assessee referring to the decision of the Co-ordinate Bench of the Tribunal in the case of Lalitkumar Kesarimal Jain vs. DCIT (2020) 113 taxmann.com 387 (Pune-Trib.) submitted that the Tribunal in the said decision has held that in view of the fact that there was no dispute about genuineness of transactions entered into between assessee and builder, mere fact that assessee was one of associated parties in said concern which was developing housing project, could not be a ground to deny benefit of deduction u/s 54F.

18. Referring to the decision of Bangalore 'A' Bench of the Tribunal in the case of Dr. Sheela Puttabuddi vs. ITO (2022) 143 taxmann.com 436 (Bangalore – Trib.), he submitted that the Tribunal in the said decision has held that the assessee can claim deduction u/s 54F even if new asset was registered in name of assessee beyond the prescribed period.

19. Referring to the decision of Hon'ble Supreme Court in the case of Fibre Boards (P) Ltd. vs. CIT (2015) 62 taxmann.com 135 (SC), he submitted that the Hon'ble Supreme Court in the said decision has held that advances paid for purpose

of purchase and / or acquisition of plant / machinery, and land / building amount to utilization by assessee of capital gains under section 54G.

20. Referring to the decision of the Hon'ble High Court of Karnataka in the case of CIT vs. Mrs. Shakuntala Devi (2016) 75 taxmann.com 222 (Karnataka), he submitted that the Hon'ble High Court in the said decision has held that the utilization of capital gains in construction of residential house within a period of two years would suffice to claim exemption under section 54 irrespective of fact that neither sale transaction was concluded, nor registration had taken place within 2 years.

21. Referring to the decision of the Hon'ble High Court of Karnataka in the case of CIT vs. Smt. B.S. Shantakumari (2015) 60 taxmann.com 74 (Karnataka), he submitted that the Hon'ble High Court in the said decision has held that once it is established by the assessee that she had invested entire net consideration in construction of residential house within stipulated period, it would meet requirement of section 54F and she would be entitled to get benefit of section 54F even if the construction was not completed within a period of three years.

22. So far as the decision of Hon'ble Supreme Court in the case of Suraj Lamp & Industries (P.) Ltd. vs. State of Haryana (supra) relied on by the Ld. DR is concerned, he submitted that the said decision is not in context of 54F but the same was in respect to mutation in municipal or revenue records and therefore, the same

is not applicable to the facts of the present case. He accordingly submitted that the order of the Ld. CIT(A) / NFAC being in accordance with law should be upheld and the grounds raised by the Revenue be dismissed.

23. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us by both the sides. We find the Assessing Officer in the instant case rejected the claim of exemption u/s 54F of the Act on the ground that (i) the assessee has not submitted a registered document to establish that she has purchased the residential house, (ii) MoU dated 21.08.2015 is un-registered, (iii) as per clauses of MoU, 1/4<sup>th</sup> right in the house property is disputed and a civil suit in this regard is still pending, (iv) which shows that Kumar Housing Corporation was not the owner of the property at the time of making MoU, (v) MoU is nothing but a colourable devise with the sole purpose of evading taxes, (vi) MoU dated 21.08.2015 is nothing but a document made with family members and related concern with the purpose to suit the assessee. We find the Ld. CIT(A) / NFAC on the basis of submissions made by the assessee, remand report of the Assessing Officer and rejoinder of the assessee to such remand report, allowed the claim of deduction u/s 54F of the Act, the reasons of which have already been reproduced in the preceding paragraphs.

24. We do not find any infirmity in the order of the Ld. CIT(A) / NFAC on this issue. There is no dispute to the fact that Kumar Housing Corporation Pvt. Ltd. with whom the assessee had entered into MoU on 21.08.2015 was the absolute owner of 3/4<sup>th</sup> share in the property situated at House No.2409, Survey No.390/2533, General Thimaiya Road, Camp, Pune. There is also no dispute to the fact that an amount of Rs.10.60 crores has been transferred from the account of the assessee to Kumar Housing Corporation on the date of MoU. There is also no dispute to the fact that the actual sale deed which was executed on 21.04.2018 contains the reference to the MoU dated 21.08.2015 by which date the assessee has made the payment of Rs.10.60 crores. Under these circumstances, it has to be seen as to whether the assessee is entitled to claim deduction u/s 54F of the Act when the actual sale deed has not been entered into within the specified period and such an MoU has been entered into with a concern where the assessee and the family members are shareholders.

25. We find the Hon'ble Bombay High Court in the case of CIT vs. Dr. Laxmichand Narpal Nagda (supra) has held that when the whole consideration was paid, possession of the flat was obtained and the flat was actually put to use for dwelling, deduction u/s 54 cannot be denied for mere non-registration of the flat. The relevant observations of the Hon'ble High Court read as under:

*“4. The Supreme Court in the case of CIT v. T N. Aravinda Reddy though in the context of a different factual background observed that the word "purchase" in section 54 has to be construed in a wider sense.*

*5. In the case of CIT v. Mrs. Shahzada Begum , the Andhra Pradesh High Court, rejecting the submission that the crucial date for the purpose of determining when*

*the property is purchased within the meaning of section 54 is the date of registration of the sale deed in favour of the assessee when the title passes, came to the conclusion that the expression "purchase" would connote the domain and control of the property given into the assessee's hands.*

*6. Taking into consideration the letter as well as the spirit of section 54 and the word "towards" used before the word "purchase" in sub-section (2) of section 54, it seems to us that the said word is not used in the sense of legal transfer and, therefore, the holding of a legal title within a period of one year is not a condition precedent for attracting section 54. In the instant case, the whole consideration was paid, possession of the flat was obtained and it was actually put to use for dwelling within four months, as a result exemption contemplated under section 54 was clearly attracted.*

*7. Our pointed attention was drawn by the Revenue to the decision of the Supreme Court in the case of Alapati Venkataramiah v. CIT wherein the word "transfer" as found in section 12(b) of the Indian Income-tax Act, 1922, is interpreted as meaning "passing of title". Since the word interpreted as well as its context are different, the ratio of that decision will have no application to the instant case.*

*8. Under the circumstances, no question of law arises out of the order of the Tribunal and the Tribunal was justified in not making a reference."*

26. We find the Hon'ble Karnataka High Court in the case of CIT vs. Mrs. Shakuntala Devi (supra) has held that the utilization of capital gains in construction of residential house within a period of two years would suffice to claim exemption under section 54 irrespective of fact that neither sale transaction was concluded, nor registration had taken place within 2 years. The relevant observations of Hon'ble High Court read as under:

*"11. A reading of the above Section would make it explicitly clear that proceeds of sale of the property is to be reinvested within a period of two years, which would not be chargeable to tax. The intention of Legislature was to encourage the investment in the acquisition of residential house or construction thereof. The condition precedent for claiming benefit under said provision is that the capital gains realized from sale of a capital asset should be reinvested either in purchasing a residential house or utilised for constructing a residential building. If it is established that consideration so received on alienation of property has been invested in either purchasing a residential building or spent on construction of residential building, an assessee would be entitled to the benefit flowing from Section 54 of the Act irrespective of the fact that transaction not being complete in all respects. In other words, it has to be examined or discerned from*

*the facts of each case as to whether the assessee had undertaken such an exercise or not?*

*12. The main purpose of Section 54 of the Act is to give relief in respect of profits on the sale of a residential house. Necessary conditions to be fulfilled for the applicability of Section 54 are:*

- (i) Assessee should be an individual or a Hindu Undivided Family;*
- (ii) Capital assets should result from the transfer of a long term capital asset;*
- (iii) Capital gain must arise from transfer of building which is chargeable as 'income from house property';*
- (iv) Property should be a residential house;*
- (v) Assessee must have within a period of two years after that date purchased another property;*
- (vi) Property purchased must be residential;*
- (vii) Exemption would be available only to the extent the sale proceeds are utilized;*
- (viii) Where re-investment in a residential property is not made before due date for filing report, amount not so utilized till such date is required to be deposited in Capital Gain Account Scheme.*

*Thus, if the above conditions are satisfied, assessee is entitled to claim benefit of the provision of Section 54.*

*13. Facts on hand would disclose that assessee had owned a flat at Mumbai and sold the same on 04.02.2003 for a total consideration of ` 1,70,00,000/-. Subsequent to such sale she entered into an agreement for purchasing another property for a total consideration of ` 3,25,00,000/- by agreement dated 08.09.2003. Said agreement came to be entered into within six months from the date of sale i.e., 04.02.2003 and assessee had paid a total consideration of `2,40,00,000/- between April' 2003 to September' 2003. After making the payment, a registered sale deed had not been executed in favour of the assessee before completion of two years period pursuant to Memorandum of Understanding dated 08.09.2003. The consideration received by her under sale dated 04.02.2003 has been paid by the assessee for purchasing another property and reinvestment has been made within two years as contemplated under Section 54 of the Act. These facts are not in dispute. Thus, long- term capital gains computed by virtue of sale deed stood adjusted by virtue of payment made by assessee for purchasing another property under Memorandum of Understanding dated 08.09.2003. As such, Tribunal has rightly held that date of purchase was to be taken as the basis for reckoning the period of two years prescribed under Section 54 of the Act for extending the benefit flowing therefrom. In the instant case consideration paid by assessee under Memorandum of Understanding dated 08.09.2003 would fully cover the consideration of capital gains portion for being eligible to claim exemption under Section 54 of the Act.*

*14. Coordinate Bench of this Court in the case of PRINCIPAL COMMISSIONER OF INCOME-TAX vs. C. GOPALASWAMY reported in [2016] 384 ITR 307*

*(KAR) has held that utilization of capital gains in construction of residential house would suffice to claim the benefit of Section 54 of the Act.*

*15. Following the same and for the reasons aforesaid, we are of the considered view that substantial question of law is to be answered in the affirmative i.e., in favour of assessee and against the revenue and accordingly, it is answered.”*

27. We find the Hon’ble Karnataka High Court in the case of CIT vs. Smt. B.S. Shantakumari (supra) has held that once it is established by the assessee that she had invested entire net consideration in construction of residential house within stipulated period, it would meet requirement of section 54F and she would be entitled to get benefit of section 54F even if the construction was not completed within a period of three years. The relevant observations of Hon’ble High Court read as under:

*“8. Section 54F of the Act is a beneficial provision which promotes for construction of residential house. Such provision has to be construed liberally for achieving the purpose for which it is incorporated in the statute. The intention of the legislature, as could be discerned from the reading of the provision, would clearly indicate that it was to encourage investments in the acquisition of a residential plot and completion of construction of a residential house in the plot so acquired. A bare perusal of said provision does not even remotely suggest that it intends to convey that such construction should be completed in all respects in three (3) years and/or make it habitable. The essence of said provision is to ensure that assessee who received capital gains would invest same by constructing a residential house and once it is established that consideration so received on transfer of his Long Term capital asset has invested in constructing a residential house, it would satisfy the ingredients of Section 54F. If the assessee is able to establish that he had invested the entire net consideration within the stipulated period, it would meet the requirement of Section 54F and as such, assessee would be entitled to get the benefit of Section 54F of the Act. Though such construction of building may not be complete in all respect "that by itself would not disentitle the assessee to the benefit flowing from Section 54F". In fact, appellate Commissioner has not only taken note of the judgment of the co-ordinate bench of this Court in Sambandam's Udaykumar case (supra), but had also taken note of the judgment of High Court of Madras in the case of CIT v. Sardarmal Kothari[2008] 302 ITR 286, which was on similar facts as obtained in Sambandam Udaykumar's case (supra) and as such in the instant case, Appellate Commissioner allowed assessee's appeal noting that the appeal filed by the revenue against the order of High Court of Madras before Apex Court in CC Nos.3953-3954/2009 had been dismissed on 06.04.2009.*

9. That apart, co-ordinate bench of this Court in *Sambandam Udaykumar's case (supra)* referred to *supra* has examined similar issue and has held that the words used in Section 54F are 'purchased' or 'constructed' and held that the condition precedent for claiming benefit under such provision is the capital gain realized from sale of a Long-Term capital asset should have been parted by the assessee and invested either in purchasing a residential house or in constructing a residential house. It has also been held that if the assessee has invested money in constructing the residential house, merely because the construction was not complete in all respects or such building is yet to be completed fully or the building not being in a fit condition for being occupied, would by itself not be a ground for the assessee to be denied the benefit under Section 54F of the Act. It has been held by the co-ordinate bench as under:

*"The intention of the legislature was to encourage investments in the acquisition of a residential house and completion of construction or occupation is not the requirement of law. The words used in the section are 'purchased' or 'constructed'. For such purpose, the capital gain realized should have been invested in a residential house. The condition precedent for claiming benefit under the said provision is the capital gain realized from sale of capital asset should have been parted by the assessee and invested either in purchasing a residential house or in constructing a residential house. If after making the entire payment, merely because a registered sale deed had not been executed and registered in favour of the assessee before the period stipulated, he cannot be denied the benefit of Section 54F of the Act. Similarly, if he has invested the money in construction of a residential house, merely because the construction was not complete in all respects and it was not in a fit condition to be occupied within the period stipulated, that would not disentitle the assessee from claiming the benefit under Section 54F of the Act".*

28. We find the Pune Bench of the Tribunal in the case of *Ramdas Sitaram Patil vs. ACIT (supra)* has held that that where recital of sale deed clearly pointed out that possession of property was taken on 31.03.2015 which was within period of one year before date of sale of original asset and covenants in sale deed executed and registered were conclusive, in absence of any evidence to contrary, the assessee was entitled for deduction u/s 54/54F. The relevant observations of the Tribunal read as under:

“9. We heard the rival submissions and perused the material on record. The solitary issue in the present appeal revolves round the entitlement of assessee for deduction u/s.54/54F of the Income-tax Act, 1961. From the perusal of the assessment order, it would reveal that the AO had denied the claim for deduction u/s.54/54F, firstly on the ground that no deduction u/s.54F/54F can be claimed simultaneously in respect of the new residential house and secondly, the new residential property was purchased before one year prior to the sale of original asset. Admittedly, the sale consideration was paid prior to the one year before the sale of original asset. There is no bar under law to claim deduction simultaneously u/s.,54 and u/s.54F in respect of the same asset. The crucial fact which needs to be determined in the present case is the date of purchase of the new residential property. It is settled position of law that the crucial date for the purpose of determination is when the property is purchased for the purpose of section 54 and the date when the possession and control of the property is given to the purchaser’s hands. Reliance can be made to the decision of Hon’ble Andhra Pradesh High Court in the case of CIT Vs. Shahzada begum (1988) 173 ITR 397 and also the decision of Hon’ble Bombay High Court in the case of CIT Vs. Dr. Laxmichand Narpal Nagda (deceased) 211 ITR 804 wherein the Hon’ble High Court after referring to the decision of Hon’ble Supreme Court in the case of CIT Vs. T.N.Aravinda Reddy (1979) 120 ITR 46 and the decision of Hon’ble Andhra Pradesh High Court in the case of CIT Vs. Mrs. Shahzada Begum (1988) 173 ITR 397 held that the term “purchase” employed in sub-section (2) of section 54, is not used in the sense of legal transfer and therefore, the holding of a legal title within a period of one year is not a condition precedent for availing deduction u/s.54. The relevant paragraph of the judgment is reproduced below :

“6. Taking into consideration the letter as well as the spirit of section 54 and the word "towards" used before the word "purchase" in sub-section (2) of section 54, it seems to us that the said word is not used in the sense of legal transfer and, therefore, the holding of a legal title within a period of one year is not a condition precedent for attracting section 54. In the instant case, the whole consideration was paid, possession of the flat was obtained and it was actually put to use for dwelling within four months, as a result exemption contemplated under section 54 was clearly attracted.

7. Our pointed attention was drawn by the Revenue to the decision of the Supreme Court in the case of Alapati Venkataramiah v. CIT wherein the word "transfer" as found in section 12(b) of the Indian Income-tax Act, 1922, is interpreted as meaning "passing of title". Since the word interpreted as well as its context are different, the ratio of that decision will have no application to the instant case.”

10. Applying the above principle in the present case, the recital of the sale deed clearly says that possession of the property was taken on 31.03.2015 which is within the period of one year before the date of sale of original asset. The covenants in the sale deed executed and registered are conclusive in the absence of any evidence to the contrary. The finding of the ld. CIT(A) that it is a fabricated document is a mere bald allegation and cannot be sustained in the eyes of law.

*11. In the light of above discussion, we are of the considered opinion that the appellant is entitled for deduction u/s.54/54F as claimed by the assessee.”*

29. We find the Co-ordinate Bench in the case of Lalitkumar Kesarimal Jain vs. DCIT (supra) has held that mere fact that assessee was one of associated parties in said concern which was developing housing project, could not be a ground to deny benefit of deduction u/s 54F.

30. We find the Hon'ble Supreme Court in the case of Fibre Boards (P) Ltd. vs. CIT (supra) has held that advances paid for purpose of purchase and / or acquisition of plant / machinery, and land / building amount to utilization by assessee of capital gains under section 54G. The relevant observations of the Hon'ble Supreme Court read as under:

*“36. A reading of Section 54G makes it clear that the assessee is given a window of three years after the date on which transfer has taken place to “purchase” new machinery or plant or “acquire” building or land. We find that the High Court has completely missed the window of three years given to the assessee to purchase or acquire machinery and building or land. This is why the expression used in 54G(2) is “which is not utilized by him for all or any of the purposes aforesaid....”. It is clear that for the assessment year in question all that is required for the assessee to avail of the exemption contained in the Section is to “utilize” the amount of capital gains for purchase and acquisition of new machinery or plant and building or land. It is undisputed that the entire amount claimed in the assessment year in question has been so “utilized” for purchase and/or acquisition of new machinery or plant and land or building.*

37. The High Court is not correct when it states:-

*“31. The word ‘purchase’ is not defined under the Act and therefore, has to be construed in the commercial sense. In many dictionaries, the word ‘purchase’ means the acquisition of property by party’s own act as distinguished from acquisition by act of law. In the context in which the expression issued by the Legislature requires first to be understood and interpretation that suits the context requires to be adopted. Exemption of capital gains under Section 54G of the Act can be claimed on transfer of*

*assets in cases of shifting of industrial undertaking from urban area to any other non-urban area. This exemption may be claimed if the capital gains arising on transfer of any of assets of existing industrial unit is utilized within one year or three years after the date on which the transfer took place for purchase of new machinery or plant for the purposes of the business of the industrial undertaking in the area to which the said undertaking is shifted. The Legislature consciously has not used the expression 'towards the purchase of plant and machinery' as in Section 54(4) of the Act in contrast to Section 54(2) of the Act wherein the words 'towards' is used before the word 'purchase'. The expression 'purchased' used in sub-clause (a) of section 54G of the Act requires to be understood as the domain and control given to the assessee. In the present case, it is not in dispute that the assessee has paid advance amount for acquisition of land, plant, building and machinery, etc., within the time stipulated in the Section, but it is not the case of the assessee that after such payment of advance amount, it has taken possession of land and building, plant and machinery. In our view, if the argument of the learned Senior Counsel for the assessee is accepted, it would defeat the very purpose and object of the Section itself. By merely paying some amount by way of advance towards the cost of acquisition of land for shifting its industrial unit from urban area to non-urban area, an assessee cannot claim exemption from payment of tax on capital gains. This cannot be the intention of the Legislature and an interpretation, which would defeat the very purpose, and the object of the Act requires to be avoided.” (at para 31 of the impugned judgment).*

*38. We are of the view that the aforesaid construction of Section 54G would render nugatory a vital part of the said Section so far as the assessee is concerned. Under sub-section (1), the assessee is given a period of three years after the date on which the transfer takes place to purchase new machinery or plant and acquire building or land or construct building for the purpose of his business in the said area. If the High Court is right, the assessee has to purchase and/or acquire machinery, plant, land and building within the same assessment year in which the transfer takes place. Further, the High Court has missed the key words “not utilized” in sub-section (2) which would show that it is enough that the capital gain made by the assessee should only be “utilized” by him in the assessment year in question for all or any of the purposes aforesaid, that is towards purchase and acquisition of plant and machinery, and land and building. Advances paid for the purpose of purchase and/or acquisition of the aforesaid assets would certainly amount to utilization by the assessee of the capital gains made by him for the purpose of purchasing and/or acquiring the aforesaid assets. We find therefore that on this ground also, the assessee is liable to succeed. The appeals are, accordingly, allowed and the judgment of the High Court is set aside.”*

31. In view of the above discussion and in the light of the various decisions cited (supra) and considering the fact that the assessee has admittedly entered into MoU and paid an amount of Rs.10.60 crores to M/s. Kumar Housing Corporation, which

finds mention in the sale deed executed subsequently, therefore, merely because the assessee and his family members are the shareholders in KUD and that the sale deed has been executed after a period of two years, the assessee in our opinion cannot be denied the benefit of deduction u/s 54F of the Act. We accordingly uphold the order of the Ld. CIT(A) / NFAC and the grounds raised by the Revenue are dismissed.

32. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open Court on 30<sup>th</sup> December, 2024.

**Sd/-**  
(ASTHA CHANDRA)  
JUDICIAL MEMBER

**Sd/-**  
(R. K. PANDA)  
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 30<sup>th</sup> December, 2024  
GCVSR

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे  
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	16.12.2024		Sr. PS/PS
2	Draft placed before author	17.12.2024		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			