आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

श्री मंजूनाथ जी, माननीय लेखा सदस्य एवं श्री रवीश सूद, माननीय न्यायिक सदस्य
SHRI G. MANJUNATHA, HON'BLE ACCOUNTANT MEMBER
AND
SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

आयकरअपीलसं./**I.T.A.No.1284/Hyd/2025**
(निर्धारण वर्ष/ **Assessment Year: 2016-17)**

Kamaluddin Hamed Salmani, R/o.Hyderabad. PAN : CRAPS1163D	*Vs.*	The Deputy Commissioner of Income Tax, Circle 9(1), Hyderabad.
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri Surabhi, C.A.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Gurpreet Singh, Sr.AR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	16.10.2025
घोषणा की तारीख/ Date of Pronouncement	:	31.10.2025

O R D E R

PER MANJUNATHA G., A.M :

This appeal filed by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [in short "NFAC"], Delhi, dated 12.06.2025 relating to the assessment year 2016-17.

2. The brief facts of the case are that, the assessee is an individual and filed his return of income for the assessment year 2016-2017 u/sec.139(1) of the Income Tax Act, [in short "the Act"] 1961 on 05.08.2016 declaring total income of Rs.49,83,339/-. The Assessing Officer has completed the assessment u/sec.143(3) of the Act on 18.12.2018 by accepting the return of income filed by the assessee. As per the Information available with the Department, the assessee has executed sale deed agreement with a GPA holder, Sri Badruddin Hussain Salmani for a consideration of Rs.1,63,25,000/- which is to be adjusted with the loan amount owned by the GPA holder to the assessee. The GPA holder paid a sum of Rs.88,00,000/- and the remaining Rs.75,25,000/- shall be adjusted with development and repairs of the building which is to be made by the vendor. The assessee vendee deducted TDS of Rs.88,000/- u/sec.1941A taking into consideration of amount received by the assessee i.e., Rs.88,00,000/- as the net consideration. The Assessing Officer during the course of re-assessment proceedings noted that, the consideration for the purpose of TDS u/sec.194(1A) shall be on the total amount of Rs.1,63,25,000/- and not Rs.88,00,000/- and that, the TDS shall

be deducted @ 1% on Rs.1,63,25,000/- which worked out to Rs.1,63,250/-. Therefore, the Assessing Officer noted that, the differential amount Rs.75,250/- (Rs.1,63,250/- - Rs.88,000/-) needs to be brought to tax.

2.1. The Assessing Officer noted that, the assessee has sold a land vide sale deed No.8230 dated 27.7.2015 for a consideration of Rs.2,01,85,000/-. The Assessing Officer observed from the sale deeds produced by the assessee that, out of the capital gain of Rs.2,00,35,049/- (total consideration of Rs.2,01,85,000/- cost of acquisition of Rs.1,49,951/-) that arise from the sale of the land mentioned above, only an amount of Rs.38,60,100/- was deposited in the capital gain scheme and the remaining Rs.1,63,25,000/- was not actually utilized for the purpose of purchase or construction of a residential house. The residential house stated to have been purchased by the assessee on 30.06.2016 was not actually purchased out of the capital gain derived by him from the sale of the land. The GPA holder of the house property, Sri Badruddin Hussain Salmani owned loan amount of Rs.1,63,25,000/- to the assessee, which he could not repay. Hence, the assessee has taken the house property into his

possession through the sale deed dated 30.03.2016 in lieu of the loan given by him. Hence, the Assessing Officer observed that, the capital gain arrived from the sale of the land was not utilized in full for the purpose of construction of a residential property. The Assessing Officer noted that, out of capital gain of Rs.2,00,35,049/-, the assessee has deposited a sum of Rs.38,60,000/- in the capital gain scheme. Therefore, the Assessing Officer observed that, the remaining unutilized/un-appropriated amount of Rs.1,63,25,000/- has not been brought to tax u/sec.45 as long term capital gains. In view of the matter, the Assessing Officer has reason to believe that, the income chargeable to tax has been escaped assessment and, therefore, initiated the proceedings u/sec.147 of the Act and issued notice u/sec.148 of the Act dated 30.03.2021. During the course of re-assessment proceedings, the Assessing Officer issued notices u/sec.142(1) dated 22.11.2021 and 14.02.2022 and the assessee has filed his submissions dated 04.01.2022 and 21.02.2022 respectively. Further, the Assessing Officer issued show cause notice u/sec.147 of the Act to the assessee on 16.03.2022 and the assessee has filed his submissions dated

21.03.2022. The Assessing Officer after considering the submissions of the assessee observed as under :

> *"The assessee vide reply dated 16.03.2022 has also stated that the amount of Rs.1,63,25,000/- was loaned out by the assessee to one, Sh. Badruddin Hussain Salmani. As Sh. Badruddin Hussain Salmani was unable to pay the loan, the property was handed over to the assessee. From the above it is evident that the amount of Rs.1,63,25,000/- invested was not out of the capital gain from the sale of the land vide sale deed No.8230 dated 27.7.2015. Therefore the amount of Rs.1,63,25,000/-has not been offered to tax and hence added back to the income of the assessee."*

2.2. The Assessing Officer accordingly made addition under the head "Long Term Capital Gains" amounting to Rs.1,63,25,000/- and assessed the total income of the assessee at Rs.2,12,98,340/- as against the returned income u/sec.143(3) order dated 18.12.2018 vide order dated 30.03.2022 passed u/sec.147 r.w.s.144 r.w.s.144B of the Income Tax Act, 1961.

3. Aggrieved by the re-assessment order, the assessee preferred appeal before the learned CIT(A). Before the learned CIT(A), it was the submission of the assessee that, the assessment in the case of the assessee has already been completed by the Assessing Officer u/sec.143(3) of the Act by accepting the return

of income declared by the assessee amounting to Rs.49,83,339/- filed u/sec.139(1) of the Act dated 05.08.2016. He submitted that, the Assessing Officer has reopened the assessment on mere change of opinion without providing any new facts, documents or reasons in his possession and issued notice u/sec.148 of the Act dated 30.03.2021 which is not illegal and bad in law. He submitted that, he had filed submissions in response to the notices issued by the Assessing Officer u/sec.143(2) and 148 of the Act along with supporting details, documents, records such as Agreement of Sale, Sale Deed and Computation of Capital Gains. He reiterated the submissions made during the course of assessment proceedings before the learned CIT(A) and submitted that, he had given loan of Rs.1,63,25,000/- to Mr. Badruddin Hussain Salmani. Since, Mr. Badruddin Hussain Salamn could not repay the said loan amount, he had proposed to sell the house property bearing H.No.2-6-7/L77 and L78 on Plot Nos.177 and 178 situated at Golden Heights Colony, Budvel (V), (Upperpally) under GHMC, Rajendra Nagar Circle, Ranga Reddy District, Telangana for a total sale consideration of Rs.88,00,000/- and the balance sum of Rs.75,25,000/- was agreed to be paid by way of

development and repairs to the building as the same was in a dilapidated condition. He submitted that, all these facts were explained in the sale agreement as well as in sale deed for settlement of debts and development of the property, before the Sub-Registrar in the sale deed. He submitted that, he has rightly made the claim u/sec.54F of the Act as there is no such pre condition for claiming exemption that the very same currency should be reused for purchase of property. In support of this contention, the assessee relied upon the Judgment of Hon'ble Supreme Court in the case of CIT vs., TN Aravinda Reddy 120 ITR 46 (SC). He submitted that, section 54 must be interpreted in its ordinary meaning, as buying for a price or equivalent of price by payment in kind or adjustment towards an old debt or for other monetary consideration and that, there is no stress in the section on cash and carry. He, accordingly submitted that the claim of the Assessing Officer that, the amount of Rs.1,63,25,000/- invested by the assesse was not out of capital gain from the sale of land is not correct and the claim of the assesse for investment of the capital gain of Rs.1,63,25,000/- is correctly claimed u/sec.54F of

the Act and, therefore, submitted that, the claim of the assessee be allowed.

3.1. Before the learned CIT(A), it was the contention of the assessee that, the Assessing Officer has also proposed addition of Rs.75,250 towards TDS less paid by the assesse which is not correct as the assesse has paid the total TDS amount of Rs.1,63,250 at 1 percent on Rs.1,63,25,000/- towards sale consideration and also filed Form 26QB by the assesse which is also not looked into by the Assessing Officer nor has he verified the traces and proposed to add the differential amount of Rs.75,250/- which needs to be corrected and rectified. The assessee further submitted that, reopening of the case of the assessee is not valid as the same is due to change of opinion. He, therefore, pleaded that the re-assessment order of the Assessing Officer should be set aside.

4. The learned CIT(A) after considering the submissions of the assessee observed that, "the appellant has not fulfilled requirement for claiming exemption from capital gains as per section 54F(1) r.w.s 54(4) which clearly mandate that the amount

of net consideration towards the purchase or construction of new asset which is not appropriated or not utilized has to be deposited by him in accordance with the scheme. The appellant has deposited only Rs.38,60,100/- in the capital gain scheme which has rightly been allowed by the AO. The balance amount has not been either appropriated or utilized for the construction or the purchase of the new asset. Therefore, the AO has rightly brought the amount to tax as capital gains. The judgment relied upon by the appellant in support of its contention does not apply to the facts of the present case and is distinguishable. Therefore, the appeal on this ground fails and is hereby dismissed." With respect to the other ground regarding credit of TDS deducted, the learned CIT(A) has directed the Assessing Officer to verify the facts and give credit as per law. Accordingly, the learned CIT(A) has partly allowed the appeal of the assessee. The relevant observations of the learned CIT(A) are as under :

> *"7. Decision :*
>
> *7.1 The issues were considered. The relevant assessment order, Statements of facts, Grounds of appeal, and written submission were carefully perused. On perusal of the assessment order and written submission, it is found that the*

issue in dispute pertains to the addition made by the AO under the head 'Long Term Capital Gain' of Rs.1,63,25,000/-

7.2 The AO has observed that, as per the information available with the department, the appellant executed a sale deed agreement with a GPA holder, Sri Badruddin Hussain Salmani for a consideration of Rs.1,63,25,000/-, which was to be adjusted with the loan amount owned by the GPA holder to the appellant. It is further stated by the AO that the GPA holder paid a sum of Rs.88,00,000/- and the remaining amount of Rs.75,25,000/- was to be adjusted with development and repairs of the building. which was to be made by the vendor.

7.2.1. The AO has stated that the appellant had sold a land vide sale deed No. 8230 dated. 27.7.2015 for a consideration of Rs.2,01,85,000/-. From the sale deed it was observed by the AO, that out of the capital gain of Rs.2,00,35,049 (total consideration of Rs.2,01,85,000-cost of acquisition of Rs.1,49,951) that arose from the sale of the land, only an amount of Rs.38,60,100 was deposited in the capital gain scheme and the remaining Rs.1,63,25,000/- was not actually utilized for the purpose of purchase or construction of a residential house as required for claiming benefit of section 54F of the Act. The residential house stated to have been purchased by the appellant, was not actually purchased out of the capital gain derived by him from the sale of the land. The GPA holder of the house property, Sri Badruddin Hussain Salmani, owned a loan amount of Rs.1,63,25,000/- to the appellant, which he could not repay. Hence, the appellant had taken the house property into his possession through the sale deed dated, in lieu of the loan given by him. Hence, it was held by the AO that the capital gain derived from the sale of the land was not utilized in full for the purpose of purchase or construction of a residential property. Out of the capital gain of Rs.2,00,35,049/-, the appellant had deposited a sum of Rs.38,60,100/- in a capital gain scheme. The AO has further stated that the remaining unutilized/un-appropriated amount of Rs.1,63,25,000/- was not brought to tax u/s 45 as long-term capital gains. Accordingly,

Proceedings u/s 147 of the Act were initiated by issuance of notice u/s 148 dated 30.03.2021 by the AO, and after considering the reply filed by the appellant, an addition of Rs.1,63,25,000/- was made to the total income as LTCG for AY 2016-17.

7.3.1 During the appellate proceedings the appellant submitted that the AO had issued notice u/s 148 to him on 30.03.2021 for reopening of the assessment because of a mere change in opinion. There was no new information or any subsequent material which was brought on record by the AO before re-opening the assessment.

The appellant has also relied on the judgment of various case laws viz. The Suminter Organic and Fair Trade Cotton Ginning Mill vs DCIT (Bombay High Court), Siemens Financial Services Pvt. Ltd. vs DCIT (2023) 457 ITR 647/154 taxmann.com 159/334 CTR 825 (BOM)(HC) and CIT v. Kelvinator of India Ltd. (2010) 320 ITR 561 (SC).

7.3.2 On the issue of deduction u/s 54F the appellant has submitted that to claim the exemption u/s 54F, the appellant should purchase a residential house one year before the sale of property or 2 years after the sale of property in case of purchase of residential house or within a period of three years in case of construction of house property and the law does not require to purchase property out of the same money/currency which was received as sale consideration; but as per the appellant's contentions the law only requires that the property should be purchased within the time frame given under the Act. When the law allows the appellant to purchase the property one year before the sale of property on which capital gain is earned, the assumptions of the ITO to apply the same money/currency for purchasing the property for claim of exemption u/s 54F is not correct. The appellant has also relied upon the decision held in the case of T.N. Aravinda Reddy (1979) 1 Taxman 40 (AP)/120 ITR 46 (SC). The appellant further contended that the assumptions of AQ that the appellant had taken possession of the property by force or coercion are not correct, and that he had purchased

the property from the vendor by properly entering Into the Sale Agreement and Sale Deed, and as per the requirements under the law.

7.3.3 On the issue of deduction of TDS, the appellant has submitted that he had deducted the TDS amount of Rs.1,63,250/-1% on Rs.1,63,25,000/- and not Rs.88,000/-. In support, the appellant enclosed a copy of Form 26QB for verifying the payment.

7.4.1 The appellant has contended that the reopening of the case is not valid and is due to a mere change in opinion. In this regard, the assessing officer has given a finding in the order that the department was in possession of information, and the AO has discussed the reason for the reopening in para 1.1 cited above, wherein it is clearly brought out that it is based on facts and evidence brought on record. Therefore, I do not find force in the argument that was the mere change of opinion. The judgments relied upon by the appellant are clearly distinguishable from the facts of the present case. Therefore, the appeal on this ground is hereby dismissed.

7.4.2. I have considered the facts of the case and submissions made by the appellant and I am of the view that the AO was right in holding that the residential house stated to have been purchased by the assessee was not actually purchased out of the capital gains derived by him from the sale of the land. The GPA holder of the house property, Sri Badruddin Hussain Salmani owned a loan amount of Rs.1,63.25,000/- to the appellant, which he could not repay. Hence, the assessee has taken the house property into his possession through the sale deed, in lieu of the loan given by him. Hence, it was observed that the capital gain derived from the sale of the land was not utilized in full for the purpose of purchase or construction of a residential property as envisaged in section 54F. Out of the capital gain of Rs.2,00,35,049/- the assessee deposited a sum of Rs.38,60,100 in a capital gain scheme. The remaining unutilized/un-appropriated amount of Rs.1,63,25,000/- has now been brought to tax u/s 45 as long-term capital gains.

7.4.3. In this regard the provision of section 54F of the Act are reproduced as under:

"(1) Subject to the provisions of sub-section (4), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of any long-term capital asset, not being a residential house (hereafter in this section referred to as the original asset), and the assessee has, within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, one residential house in India (hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say, -

(a) if the cost of the new asset is not less than the net consideration in respect of the (a) original asset, the whole of such capital gain shall not be charged under section 45.

(b) If the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45

Provided that nothing contained in this sub-section shall apply where-

(a) the assessee, -

(i) owns more than one residential house, other than the new asset, on the date of transfer of the original asset, or

(ii) purchases any residential house, other than the new asset, within a period of one year after the date of transfer of the original asset; or

(iii) constructs any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset; and

(b) the income from such residential house, other than the one residential house owned on the (b) date of transfer of the original asset, is chargeable under the head "Income from house property":

[Provided further that where the cost of new asset exceeds ten crore rupees the amount exceeding ten crore rupees shall not be taken into account for the purposes of this sub-section.]

Explanation. For the purposes of this section, -

"net consideration", in relation to the transfer of a capital asset, means the full value of the consideration received or accruing as a result of the transfer of the capital asset as reduced by any expenditure incurred wholly and exclusively in connection with such transfer.

(2) Where the assessee purchases, within the period of two years after the date of the transfer of the original asset, or constructs, within the period of three years after such date, any residential house. the income from which is chargeable under the head "Income from house property", other than the new asset, the amount of capital gain arising from the transfer of the original asset not charged under section 45 on the basis of the cost of such new asset as provided in clause (a), or, as the case may be, clause (b), of sub-section (1), shall be deemed to be income chargeable under the head "Capital gains relating to long-term capital assets of the previous year in which such residential house is purchased or constructed.

(3) Where the new asset is transferred within a period of three years from the date of its purchase or, as the case may be, its construction, the amount of capital gain arising from the transfer of the original asset not charged under section

45 on the basis of the cost of such new asset as provided in clause (a) or, as the case may be, clause (b), of sub-section (1) shall be deemed to be income chargeable under the head "Capital gains" relating to long-term capital assets of the previous year in which such new asset is transferred.

(4) The amount of the net consideration which is not appropriated by the assessee towards the purchase of the new asset made within one year before the date on which the transfer of the original asset took place, or which is not utilized by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return [such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139] in an account in any such bank or institution as may be specified in, and utilized in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit, and, for the purposes of sub-section (1), the amount, if any, already utilized by the assessee for the purchase or construction of the new asset together with the amount so deposited shall 601, subject to the second proviso to sub-section (1)) be deemed to be the cost of the new asset:

Provided that if the amount deposited under this sub-section is not utilized wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,-

(i) the amount by which-

(a) the amount of capital gain arising from the transfer of the original asset not (a) charged under section 45 on the basis of the cost of the new asset as provided in clause (a) or, as the case may be, clause (b) of sub-section (1).

exceeds

(b) the amount that would not have been so charged had the amount actually utilized (b) by the assessee for the purchase or construction of the new asset within the period specified in sub-section (1) been the cost of the new asset,

shall be charged under section 45 as income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

(ii) the assessee shall be entitled to withdraw the unutilized amount in accordance with the scheme aforesaid

[Provided further that the net consideration in excess of ten crore rupees shall not be taken into account for the purpose of this sub-section].

7.4.4 It is very clear from the fact of the case that the appellant has not fulfilled requirement for claiming exemption from capital gains as per section 54F(1) r.w.s 54(4) which clearly mandate that the amount of net consideration towards the purchase or construction of new asset which is not appropriated or not utilized has to be deposited by him in accordance with the scheme. The appellant has deposited only Rs.38,60,100/- in the capital gain scheme which has rightly been allowed by the AO. The balance amount has not been either appropriated or utilized for the construction or the purchase of the new asset. Therefore, the AO has rightly brought the amount to tax as capital gains. The judgment relied upon by the appellant in support of its contention does not apply to the facts of the present case and is distinguishable. Therefore, the appeal on this ground fails and is hereby dismissed.

7.5.1 The appellant has raised the ground relating to the credit of TDS deducted being given only partly by the AO. Since this is the a matter of record, the AO is directed to verify the facts and give credit as per law.

8. In the result, the appeal is partly allowed."

5. Aggrieved by the order of the learned CIT(A), the assessee is now, in appeal before the Tribunal.

6. CA, Surabhi, Learned Counsel for the Assessee submitted that, originally in the case of the assessee assessment has been completed u/sec.143(3) of the Act by accepting the return of income filed by the assessee u/sec.139(1) of the Act. Subsequently, by mere change of opinion, the Assessing Officer has reopened the assessment u/sec.147 of the Act and, therefore, the re-assessment order passed by the Assessing Officer cannot be sustained in the eye of law. The learned counsel for the assessee referring to the assessment order passed u/s.143(3) of the Act dated 18.12.2018 submitted that, the case was selected for scrutiny under CASS to verify income relevant to capital gains derived from sale of property and during the course of assessment proceedings, the Assessing Officer issued a specific notice u/s.142(1) of the Act dated 25.10.2018 for which the assessee's response to Serial No.1 of the Annexure to notice which relates to exemption claimed u/s.54F of the Act, the assessee has furnished all the details including computation of LTCG, relevant sale deed and also investment made in purchase of property. The Assessing

Officer after considering the details, has completed the assessment. Further, he submitted that if we go through the reasons recorded for reopening of assessment, the Assessing Officer refers to the very same documents which are furnished during the course of original assessment proceedings for formation of belief of reasons regarding escapement of income and therefore it is a clear cut case of change of opinion that there being no fresh tangible material in the possession of the Assessing Officer which suggests escapement of income. Therefore, he submitted that the reopening of assessment and consequent order passed by the Assessing Officer is to be quashed and bad in law.

7. The learned Senior AR for the revenue, on the other hand, supporting the orders of Ld. CIT(A) submitted that the Assessing Officer has reopened the assessment on the basis of reasons recorded which suggests escapement of income, under assessment of LTCG which is evident from the details, reasons recorded by the Assessing Officer for issuance of notice u/s.148 of the Act. Further, although the assessment was taken up for scrutiny to verify the issue of LTCG but the Assessing Officer has completed the assessment without verifying the facts. Therefore, this is not

a case of change of opinion or as argued by the learned counsel for the assessee to form of belief of escapement of income which the Assessing Officer has passed order on fresh tangible material in his possession. Therefore, he submitted that the reopening of assessment by the Assessing Officer in the present case is on sound footing and based on fresh material and accordingly the argument of the learned counsel for the assessee on reopening of assessment is bad in law, is devoid of merits and should be rejected.

8. We have heard the rival contentions, considered the material on record and also gone through the orders of authorities below. There is no dispute with regard to the fact that the original assessment u/s.143(3) of the Act has been completed on 18.12.2018 where the Assessing Officer has restricted his verification on the issue of deduction claimed u/s.54F of the Act from the capital gains, which is evident from the reasons recorded for selection of case for limited scrutiny and subsequent notice u/s.142(1) of the Act. In fact, the Assessing Officer has issued specific notice u/s.142(1) of the Act and called for details in respect of exemption claimed u/s.54F of the Act against the

capital gains derived from sale of property, for which the assessee has furnished complete details of computation of LTCG along with relevant evidences including copies of sale deed, deduction claimed u/s.54F of the Act along with copies of property purchase deed. From the above, it is very clear that the case has been specifically taken up for scrutiny to verify the LTCG computed by the assessee and exemption claimed u/s.54F of the Act. It is also not in dispute that the assessee has furnished all the details relating to computation of capital gains in respect of exemption claimed u/s.54F of the Act. Therefore, it is necessary for us to examine the reasons recorded by the Assessing Officer for issuance of notice u/s.148 of the Act in the light of above facts.

9. The Assessing Officer has issued notice u/s.148 of the Act after recording reasons. Upon perusal of reasons recorded for reopening of assessment, we find that the Assessing Officer refers to very same sale deed agreement with GPA Holder Sri Badruddin Hussain Salmani for sale of property and consequent consideration received or adjusted against the sale proceeds and he opined that the assessee has taken possession of land through agreement dated 23.10.2016 in lieu of loan given to him and it is

very clear that the capital gains arrived from the land which were not utilized in full for the purpose of construction of residential house property, however, the assessee has claimed deduction u/s.54F of the Act for Rs.63,25,000/- even though the capital gains derived from sale of property was not utilized for purchase or construction of house property. From the above observations, it is abundantly clear that the Assessing Officer formed reasonable belief of escape of income and reasons recorded for reopening of assessment on the basis of very same material which were available in the assessment records while completing the assessment u/s.143(3) of the Act. Further, if we go through the relevant record including computation of total income, it is very clear that the assessee has disclosed the relevant facts with regard to sale of property and consideration received for sale of property in the statement of total income indicating the amount of LTCG and deduction claimed u/s.54F of the Act. Therefore, we are of the considered opinion that from our above observations, it is undisputedly clear that the Assessing Officer has reopened the assessment on ‘ mere change ’ of opinion without there being fresh tangible material which came to the possession of the Assessing

Officer subsequent to completion of original assessment u/s.143(3) of the Act. In the absence of any fresh tangible material, reopening, amounts to 'change of opinion' which is not permissible under the law. In our considered opinion, the Assessing Officer does not have any power to review his own assessment. Further, if during the original assessment, the assessee has provided all the relevant information which was considered by him before passing the assessment u/s.143(3) of the Act, then the Assessing Officer cannot initiate reassessment proceedings to have a relook at the documents that were considered by him in the original assessment. The power to reassess by the Assessing Officer cannot be exercised to review an assessment as held by the Hon'ble Bombay High Court in the case of Siemens Financial Services Pvt. Ltd. Vs. DCIT (2023) 457 ITR 647 (Bom). A similar view has been taken by the Hon'ble Supreme Court in the case of CIT Vs. Kelvinator of India Ltd. (2010) 320 ITR 561 (SC).

10. In view of our foregoing observations, considering the facts of the case and also by following the various case laws cited above (supra), we are of the considered opinion that reopening of the

assessment u/s.147 of the Act on the basis of reasons recorded for reopening of assessment is nothing but a 'change of opinion' on the very same material which were available to the Assessing Officer at the time of passing original assessment order u/s.143(3) of the Act. Therefore, the reopening of assessment in the given facts and circumstances of the case is bad in law and liable to be quashed. Thus, we quash the reassessment order passed by the Assessing Officer u/s.147 r.w.s. 144 of the Act dated 30.03.2022.

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

Order pronounced in the Open Court on 31st Oct., 2025.

Sd/-	**Sd/-**
(श्री रवीश सूद**)**	(मंजूनाथ जी**)**
(RAVISH SOOD)	**(MANJUNATHA G.)**
न्यायिक सदस्य/JUDICIAL MEMBER	**लेखा सदस्य/ACCOUNTANT MEMBER**

Hyderabad,
Dt. 31.10.2025.

**** Reddy gp / TYNM/sps***

आदेशकी प्रतिलिपि अग्रेषित/ **Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	Kamaluddin Hamed Salmani, R/o.22-7-270/17, Diwan Devdi, 500002, Hyderabad.
2.	राजस्व/ The Revenue	:	The Deputy Commissioner of Income Tax, Circle 9(1), Hyderabad.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad