

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH: BANGALORE**

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER  
and  
SHRI ABRAHAM P.GEORGE, ACCOUNTANT MEMBER**

**ITA No.1153/Bang/2014  
(Assessment year: 2010-11)**

Asst. Commissioner of Income-tax,  
Circle 5(1),  
Bangalore. ... Appellant

Vs.

Dr.Hajjaji Krishnamurthy Anand,  
No.112/1, Daignoal Road, V.V.Puram,  
Bangalore. ... Respondent  
*PAN: ADUPA3810B*

Appellant by: Dr.K.Shankar Prasad, JCIT(DR).  
Respondent by: Shri N.Nagaraju, Advocate.

Date of hearing : 17-03-2015.  
Date of pronouncement: 27-03-2015.

**O R D E R**

**Per ABRAHAM P GEORGE, AM:**

This is an appeal filed by the Revenue directed against the order dated 19/6/2014 of CIT(A)-II, Bangalore, through which he allowed the claim of the assessee under section 54EC of the Income-tax Act, 1961 [hereinafter referred to as 'the Act' for short].

2. Assessee had, during the relevant previous year, claimed deduction of Rs.1,00,00,000/- under section 54EC of the Act against long-term capital gains of Rs.3,45,37,014/- and the net

capital gain returned was Rs.2,47,37,014/-. The deduction of Rs.1,00,00,000/- was on REC bonds invested in two tranches, first of Rs.50,00,000/- on 01/03/2010 and the second of an equal amount on 27/7/2010. Since the transfer giving rise to the capital gains had happened only in February 2010, argument of the assessee was that, both investments were within the 2 months period mentioned in section 54EC(1) and just because the latter one was beyond the previous year, the deduction could not be denied. However, AO took a view that the second tranche invested in the succeeding previous year, would not be eligible for deduction under section 54EC(1). According to him, the second investment was for a different financial year. He thus restricted the claim of the assessee to Rs.50,00,000/- and recomputed the long-term capital gains at Rs.2,95,37,014/-.

3. Aggrieved, assessee moved in appeal before the CIT(A), who held in favour of the assessee relying on an order of this Tribunal in the case of *Vivek Jairazbhoy vs. DCIT* (ITA No.236/Bang/2012 dated 14/12/2012).

4. Now before us, Id. DR submitted that investments made in two years when aggregated exceeded the limit of Rs.50 lakhs set out in the section and therefore assessee ought not to have been given the relief. Per contra, Id. AR submitted that the Hon'ble Madras High Court in the case of *CIT vs. Coromandel Industries Ltd.* (2014) 12 TM 852 and in *CIT vs. C.Jaichander* (TCA N.419 and 533 of 2014 dt.15/9/2014) had taken the same

view as that of the coordinate bench in the case of *Vivek Jairazbhoy* (supra).

5. We have perused the orders and heard the rival contentions. Hon"ble Madras High Court in the case of *C.Jaichander* (supra) held as under at paras.5 to 11:

*"5. The key issue that arises for consideration is whether the first proviso to Section 54EC(1) of the Act would restrict the benefit of investment of capital gains in bonds to that financial year during which the property was sold or it applies to any financial year during the six months period.*

*6. For better understanding of the issue, it would be apposite to refer to Section 54EC(1) of the Act, which reads as under:*

*"Section 54EC. Capital gain not to be charged on investment in certain bonds.—*

*(1) Where the capital gain arises from the transfer of a longterm capital asset (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified 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 long-term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45 ;*

*(b) if the cost of the long-term specified asset is less than the capital gain arising from the transfer 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 acquisition of the long-term specified asset bears to the whole of the capital gain, shall not be charged under section 45:*

*Provided that the investment made on or after the 1st day of April, 2007 in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees."*

7. On a plain reading of the above said provision, we are of the view that Section 54EC(1) of the Act restricts the time limit for the period of investment after the property has been sold to six months. There is no cap on

*the investment to be made in bonds. The first proviso to Section 54EC(1) of the Act specifies the quantum of investment and it states that the investment so made on or after 1.4.2007 in the long-term specified asset by an assessee during any financial year does not exceed fifty lakh rupees. In other words, as per the mandate of Section 54EC(1) of the Act, the time limit for investment is six months and the benefit that flows from the first proviso is that if the assessee makes the investment of Rs.50,00,000/- in any financial year, it would have the benefit of Section 54EC(1) of the Act.*

*8. The legislature noticing the ambiguity in the above said provision, by Finance (No.2) Act, 2014, with effect from 1.4.2015, inserted after the existing proviso to sub-section (1) of Section 54EC of the Act, a second proviso, which reads as under: "Provided further that the investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees."*

*9. At this juncture, for better clarity, it would be appropriate to refer to the Notes on Clauses – Finance Bill 2014 and the Memorandum explaining the provisions in the Finance (No.2) Bill, 2014, which read as under: "Notes on Clauses – Finance Bill 2014: Clause 23 of the Bill seeks to amend section 54EC of the Income-tax Act relating to capital gain not to be charged on investment in certain bonds. The existing provisions contained in sub-section (1) of section 54EC provide that where capital gain arises from the transfer of a long-term capital asset and the assessee has within a period of six months invested the whole or part of capital gains in the long-term specified asset, the proportionate capital gains so invested in the long-term specified asset out of total capital gain shall not be charged to tax. The proviso to the said sub-section provides that the investment made in the longterm specified asset during any financial year shall not exceed fifty lakh rupees. It is proposed to insert a proviso below first proviso in said sub-section (1) so as to provide that the investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees. This amendment will take effect from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015- 16 and subsequent years. Memorandum: Explaining the provisions in the Finance (No.2) Bill, 2014: Capital gains exemption on investment in Specified Bonds. The existing provisions*

contained in sub-section (1) of section 54EC of the Act provide that where capital gain arises from the transfer of a long-term capital asset and the assessee has, at any time within a period of six months, invested the whole or any part of capital gains in the longterm specified asset, out of the whole of the capital gain, shall not be charged to tax. The proviso to the said subsection provides that the investment made in the long-term specified asset during any financial year shall not exceed fifty lakh rupees. However, the wordings of the proviso have created an ambiguity. As a result the capital gains arising during the year after the month of September were invested in the specified asset in such a manner so as to split the investment in two years i.e., one within the year and second in the next year but before the expiry of six months. This resulted in the claim for relief of one crore rupees as against the intended limit for relief of fifty lakhs rupees. Accordingly, it is proposed to insert a proviso in sub-section (1) so as to provide that the investment made by an assessee in the long-term specified asset, out of capital gains arising from transfer of one or more original asset, during the financial year in which the original asset or assets are transferred and in the subsequent financial year does not exceed fifty lakh rupees.

This amendment will take effect from 1 st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent assessment years."

10. The legislature has chosen to remove the ambiguity in the proviso to Section 54EC(1) of the Act by inserting a second proviso with effect from 1.4.2015. The memorandum explaining the provisions in the Finance (No.2) Bill, 2014 also states that the same will be applicable from 1.4.2015 in relation to assessment year 2015-16 and the subsequent years. The intention of the legislature probably appears to be that this amendment should be for the assessment year 2015-2016 to avoid unwanted litigations of the previous years. Even otherwise, we do not wish to read anything more into the first proviso to Section 54EC(1) of the Act, as it stood in relation to the assesseees.

11. In any event, from a reading of Section 54EC(1) and the first proviso, it is clear that the time limit for investment is six months from the date of transfer and even if such investment falls under two financial years, the benefit claimed by the assessee cannot be denied. It would have made a difference, if the restriction on the investment in bonds to Rs.50,00,000/- is incorporated in Section 54EC(1) of the Act itself. However, the ambiguity has been removed by the legislature with effect from 1.4.2015 in relation to the assessment year 2015-16 and the subsequent years. For the foregoing reasons, we find no infirmity in the orders passed by the Tribunal warranting interference by this Court. The

*substantial questions of law are answered against the Revenue and these appeals are dismissed."*

6. We therefore find CIT(A) to be justified in giving the deduction under section 54EC to the assessee in full. No interference is required.

7. Appeal of the Revenue is dismissed.

*Pronounced in the open court on 27<sup>th</sup> March, 2015.*

*sd/-*  
**(Rajpal Yadav)**  
**JUDICIAL MEMBER**  
*eksrinivasulu*

*sd/-*  
**(Abraham P.George)**  
**ACCOUNTANT MEMBER**

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar  
Income-tax Appellate Tribunal  
Bangalore