IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

INCOME TAX TRIBUNAL APPEAL No.78 of 2025

DATE: 08.07.2026

Between:
Sudhakar Reddy Mettu.

...Appellant

AND

Assistant Commissioner of Income Tax,
(International Taxation), 5th Floor, Aayakar Bhavan,
Basheerbagh, Hyderabad – 500 004, Telangana.

...Respondent

JUDGMENT: *(per Hon'ble Sri Justice P.Sam Koshy)*

Heard Ms. Mytri Indukuru, learned counsel for the appellant; and Mr. Vijhay K. Punna, learned Senior Standing Counsel for Income Tax Department appearing on behalf of the respondent.

2. The instant appeal under Section 260A of the Income Tax Act, 1961 (for short the 'Act') has been preferred by the appellant challenging the order passed by the Income Tax Appellate Tribunal, Hyderabad 'A' Bench, Hyderabad, (for short the 'ITAT') in ITA No.231/Hyd/2024, decided on 29.05.2024.

3. Vide the impugned order; the ITAT upheld the decision of the Assistant Commissioner of Income Tax, International Taxation-1, and dismissed the appeal preferred by the appellant.

4. The brief facts of the case are that the appellant / assessee is an individual and non-resident Indian. He had not filed return of income for the Assessment Year 2017-18. As per the immovable property transaction information disseminated by the I&CI wing for the Financial Year 2016-17 relevant Assessment Year 2017-19, the Assessing Officer noted that the assessee along with 45 others had entered into DAGPA for development and sale of immovable property of all the land, admeasuring acres 4.505 in Survey No.14 of Guttala Begumpet Village, Serlingampally Mandal, Rangareddy District (21806 square yards with an approximate built up area of 2,75,00,000 sft.), registered vide DAGPA document No.6418/2016 dated 31.05.2016, for a total sale consideration of Rs.43,61,20,000/- as against SRO value of Rs.62,86,20,000/-. As per the DAGPA, the owners and developer shares are 47.25% and 52.75%. As the assessee is one amongst the 46 owners, the share of the assessee is 1/46th of the share of the owners. The assessee's share in chargeable sale consideration as per section 50C of the Act for computation of long term capital gain was Rs.64,57,000/-.

5. During the Financial Year 2016-17, relevant to Assessment Year 2017-18, income chargeable to tax in the hands of assessee accrued in the form of long term capital gains to the extent of Rs.64,57,000/-, but the assessee did not file return of income. Therefore, income of Rs.64,57,000/- had escaped assessment in the hands of assessee for Assessment Year 2017-18. Hence, the Assessing Officer had reopened assessment with the prior administrative approval and a notice under Section 148 of the Act was issued to the assessee.

6. Notices under Section 142(1) of the Act and show cause notice was also issued to the assessee, in response to which the authorized representative of the assessee appeared before the Assessing Officer and accepted the deemed sale consideration at Rs.50,00,000/-, and claimed a indexed cost of acquisition of Rs.5,28,000/-, and submitted that the assessee is eligible for claiming exemption under Section 54F of Act.

7. However, the explanation of assessee was not acceptable to the Assessing Officer on the ground that the assessee was yet to receive the villa / residential house and had not acquired legal title on such residential house / villa as on the date of JDA. Further, the assessee had not received the legal title over the residential house/ villa in his name till date while Section 54F of the Act stipulates

that the assessee ‘shall purchase house within two years’ or ‘construct new house within three years’ and deemed that it did not violate section 54F of the Act. The assessee further admitted that the construction of the villa was not completed till date and occupancy certificate was also not received, but the Assessing Officer rejected the explanation offered by the assessee and completed the assessment under Section 147 read with Section 144C(13) of the Act and initiated penalty proceedings under Section 270A of the Act.

8. The assessee being aggrieved by the Assessing Officer’s ruling, appealed before the Dispute Resolution Panel-1, Bengaluru (for short, the ‘DRP’) on 26.04.2023 assailing the order of the Assessing Officer. The DRP upheld the demand liability of the Assessing Officer and disallowed the exemption claimed by the Assessee under Section 54F on the ground that the assessee had not received the legal title over the residential villa / house in its name till date, which was a clear violation in accordance with Section 54F of the Act. It further held that the assessee itself admitted that the construction of the villa was not completed till date and the occupancy certificate was also not received.

9. In the appeal preferred before the ITAT by the assessee against the DRP’s ruling, the ITAT held that it was abundantly clear

that the delay caused on the part of the assessee was beyond 7 years in completing the construction as against the period of three years as is envisaged under Section 54F of the Act, and hence, dismissed the appeal and upheld the ruling of the Assessing Officer.

10. Being aggrieved of the said order, the present appeal has been filed. The appeal was admitted on the substantial question of law as to "whether exemption under Section 54F of the Act can be denied to the assessee if there is a delay in receiving the legal title over the residential villa beyond the prescribed time period stipulated under Section 54F due to factors beyond the assessee's control?"

11. Learned counsel for the appellant contended that:

a) The Joint Development Agreement (for short, the 'JDA') signed between the assessee along with 45 others and the partners of the developers on 31.05.2016 expressly stipulated that the villa of 250 square yards shall be delivered to the assessee and the companion signatories within 36 months of the JDA i.e. on 31.05.2019. But the disputes between the partners of the developers resulted in delay and non-deliverance of the villas.

b) The delay caused in delivery of the villa cannot be attributed to the assessee as it was the partners of the developers who caused the delay and the assessee should be allowed to avail the benefit under Section 54F of the Act.

12. On the contrary, the learned Senior Standing Counsel for Income Tax Department submits that:

a) The JDA was signed on 31.05.2016, and as per the JDA, the assessee was entitled to receive the villa post construction, within 36 months of the JDA, i.e. on 31.05.2019, but the construction was completed only in November, 2023 and no registration was done by the assessee against the villa. Hence, the department could not extend the benefit of Section 54F of the Act.

b) Learned Senior Standing Counsel for Income Tax Department also shed light on the factual aspects of the case, stating that the alleged dispute which rose between the partners of the developers was only in 21.10.2021, which was well beyond the time stipulated in the JDA, and that no serious efforts or steps were undertaken by the assessee to ensure completion of the construction and to compel the partners of the developers to honour the agreement.

13. Upon a thorough perusal of Section 54F of the Act, the legislative intent behind the provision is that capital gains of the tax payer should be invested towards a residential property either by

means of purchasing or constructing. If, after the payment for the residential property has been made, and merely due to delay, for reasons beyond the control of the assessee, the registered sale deed has not been executed and registered in favour of the assessee, the Department cannot deny the benefit of the provision to the assessee. Hence, the contention of the Department that the benefit of Section 54F of the Act would not extend because the residential property was not fully complete in all aspects and handed over to the assessee within the time period of three years lacks merit and is not acceptable.

14. We also hold that, Section 54F of the Act in essence, is a beneficial piece of provision and has to be liberally construed and the fact that the partners of the developers delayed in constructing the residential property of the assessee would not disentitle the appellant from claiming the benefit of Section 54F because the assessee has already shown on record that the capital gains realized from the sale of the long term assets was parted off by the assessee and subsequently invested to construct the residential property. Therefore, the exemption under Section 54F of the Act cannot be denied by the Department.

15. In the case of **CIT vs. C. Gopalaswamy**[1] it was held that Section 54F of the Act is a beneficial piece of legislation and cannot be denied to the assessee merely due to non-completion of construction or non-registration of the residential property, as it would override the legislative intent behind the very enactment. The relevant paragraphs of the said judgment for ready reference are reproduced hereunder, viz.,

> *"**4.** Being aggrieved by the said order, the assessee preferred an appeal before the Commissioner of Income-tax (Appeals) which came to be dismissed. The assessee carried the matter before the Tribunal in I.T.A. No. 933(Bng)/2012 and the Tribunal after considering the submissions of the Revenue observed at para. 8 as under:*
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> > *"8. We have perused the orders and heard the rival contentions. There is no dispute that on July 28, 2008, the builder gave an allotment letter to the assessee which clearly mentions that Rs. 7.70 crores for villa No. 75 stood paid by the assesses. The sale of shares giving rise to the capital gains was on July 20, 2007. Maybe it is true that the agreement for construction entered by the assessee with the builder gave an outer date, which went beyond the three-year period from the date of sale of the shares.* ***However, the assessee had done what all it could do for acquiring the villa by paying the whole of the price on July 28, 2007 itself. There is no case for the Revenue that the construction itself was not started.Only grievance of the Revenue is that the unit numbers have changed and the outer limit for completing the construction went beyond three years'***

[1](2016) 384 ITR 307

> ***<u>limit mentioned in section 54F of the Act. In our opinion, none of these would disentitle the assessee from claiming the benefit undersection 54F of the Act</u>***.

Their Lordship's in the case of Sambandam Udaykumar (supra) had held as under (headnote of 345 ITR 389):

> *'A reading of section 54F of the Act, 1961, makes it very clear that if a capital gain arises from the transfer of any long-term capital asset, not being a residential house and the assessee has within the period of one year before or two years after the date on which transfer took place purchased or has within a period of three years after that date constructed a residential house, if the cost of the new asset is not less than the net consideration in respect of the original asset the whole ofsuch capital gain shall not be charged under section 45 of the Act. However, 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 be 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 of the Act.* ***<u>Section 54F of the Act is a beneficial provision of promoting the construction of residential house. Therefore, the provision has to be construed liberally for achieving the purpose for which it was incorporated in the statute. 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.</u>*** *The words used in the section are "purchased" or "constructed". For such purpose, the capital gain realised should have been invested in a residential house.* ***<u>The condition precedent for claiming the benefit under the provision is that capital gains realised from sale of capital asset should have been invested either in purchasing a residential</u>***

> ***<u>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.</u>*** *The essence of the provision is whether the assessee who received capital gains has invested in a residential house.* ***<u>Once it is demonstrated that the consideration received on transfer has been invested either in purchasing a residential house or in construction of a residential house even though the transactions are not complete in all respects are required under the law, that would not disentitle the assessee from benefit.'</u>***

The wordings in sections 54 and 54F with regard to the period with in which an assessee has to acquire or construct a residential house are pari-materia. The assessee in any case would have been eligible for the claim under section 54, if not under section 54F of the Act. We are therefore, of the opinion that the assessee's could not be denied the deduction claimed by them."

16. In view of the aforesaid contentions and judgments, the order by the authorities concerned denying the exemption to the assessee so far as his claim under Section 54F of the Act is concerned, is bad in law, arbitrary and therefore illegal. It is also held that the ITAT has erred in holding that the assessee was

ineligible to claim the exemption under Section 54F of the Act, and therefore, the impugned order deserves to be and is accordingly set aside. The assessee is entitled for the exemption under Section 54F of the Act even if there is a delay in receiving the legal title over residential villa beyond the prescribed period stipulated under Section 54 of the Act due to factors beyond assessee's control. The denial of exemption under Section 54 of the Act to the assessee is held to be bad in law and the question of law stands answered in favour of the assessee holding him to be entitled for exemption.

17. The Income Tax Tribunal Appeal is accordingly allowed.

18. As a sequel, miscellaneous petitions pending if any, shall stand closed. However, there shall be no order as to costs.

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P. SAM KOSHY, J

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NARSING RAO NANDIKONDA, J

Date: 08.07.2026
GSD