HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

I.T.T.A. NO.619 OF 2014

DATED:8.10.2014

Between:

The Commissioner of Income Tax (Central)
Hyderabad … Appellant

And

G. Venkata Laxmi … Respondent

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA

AND

THE HON'BLE SRI JUSTICE SANJAY KUMAR

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I.T.T.A. NO.619 OF 2014

JUDGMENT: (per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

This appeal is sought to be preferred against a portion of the impugned judgment and order of the learned Tribunal dated 4.5.2012 in relation to assessment year 2007-2008, on the following suggested question of law:

> *(1) "Whether the ITAT was justified in directing the Assessing Officer to allow deduction u/s. 54 of the Income Tax Act when the assessee had failed to construct her house within the stipulated period of three years?*
>
> *(2) Whether the deduction u/s. 54 of the Income Tax Act can be allowed only on purchase of land without completion of the residential house within the period of three years as stipulated in the Income Tax Act?*
>
> *(3) Whether the ITAT was justified in stating that the Board's Circular No.667 dt.18.10.1993 did not stipulate that the construction would have to be completed to avail the benefit u/s. 54/ 54F of the Income Tax Act where in fact, the Circular is very clear that the acquisition of the plot and the construction thereon have to be completed within the period specified in Section 54/ 54F of the Act?"*

2. In sum and substance, the Revenue has questioned allowing of benefit under Section 54 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act')

3. We have heard Sri J.V. Prasad, learned Counsel for the appellant – Revenue, and gone through the impugned judgment and order of the learned Tribunal.

4. In this case, the assessee has sold a property and the sale

proceeds were used for construction of a new building. In order to get benefit of Section 54 of the Act, the investment of the sale proceeds have to be utilized by completing new construction of the building within three years of sale of property. The learned Tribunal on fact found as follows:

"…Admittedly, in the present case, the assessee had invested the entire net consideration within the stipulated period and in fact has even constructed the major portion of residential property, as submitted by the learned counsel for the assessee, except some finishing making it fit for occupation. As the assessee has substantially completed all the work of construction and has invested the entire net consideration, it has to be inferred that the assessee has complied with the conditions provided under Section 54 of the Act. In our considered view, as the assessee has acquired substantial domain over new house and has made substantial payment towards cost of land and construction, within a period of specified under Section 54 of the Act, the assessee said to have complied with the requirements for claiming the exemption under Section 54 of the Act."

5. In order to get the benefit of Section 54 of the Act, it does not appear that in case of purchase of the property with sale proceeds it has to be reckoned within three years, in case of construction of new building utilizing sale proceeds, the construction has to be completed within a period of three years of the sale. In this case, question of registration of document does not arise and it is a question of investment in construction of the new building. When it was found on fact that construction was completed within three years of sale of the property, the benefit would automatically follows. We, therefore, do not find any element of law in this appeal for consideration by this Court and we do not want to complicate the issue by admitting the appeal.

6. Hence, we dismiss the appeal. There will be no order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

8.10.2014
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