



**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'DB' NEW DELHI**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER
AND
SHRI N.K. CHOUDHRY, JUDICIAL MEMBER**

**ITA No. 3486/Del/2019
Assessment Year: 2014-15**

Mr.Naresh Chand,
Post Gujrara, Village Dhoran,
Dehradun (Uttarakhand)
PAN: AITPC6219L
(Appellant)

Versus Income Tax Officer,
Ward 2(1), Dehradun.

(Respondent)

Appellant by : Shri A.S. Rawat, Ld. Adv.
Respondent by : Shri Pramod Verma, Sr. DR

Date of hearing : 20.06.2022
Date of order : 30.06.2022

ORDER

PER N.K. CHOUDHRY, J.M.

This appeal has been preferred by the Assessee against the order dated 02.04.2019, impugned herein, passed by the learned Commissioner of Income-tax (Appeals)-Dehradun (in short 'Id. Commissioner') u/s. 250(6) of the Income-tax Act, 1961 (in short 'the Act') for the assessment year 2014-15.

2. Brief facts, relevant for adjudication of this appeal are that the Assessee by executing a sale deed dated 15.10.2013, jointly sold a piece of land on dated 15.10.2013 and received consideration in two parts i.e. Rs.42.93lacs on 02.08.2013 and Rs.95.84 lacs on

15.04.2014. For availing exemption u/s. 54EC of the Act, the Assessee made an application for NHAI bonds of Rs.50 lacson dated 29.04.2014 and consequently, got allotted the bonds to the tune of Rs.50 lacs on dated 30.04.2014 and accordingly claimed exemption u/s. 54EC of the Act qua amount of Rs. 50,00,000/-.

The Assessee, on being asked by the Assessing Officer, claimed before the Assessing Officer that the Assessee had sold the land in the month of October, 2013 and bonds were purchased on 30.04.2014, which are within the permissible limit of six months from the date of sale of the land. Further the expression "six months" means calendar months and not 180 days. In the absence of definition of word "month" in the Income-tax Act, one given in the General Clauses Act shall prevail, according to which month shall mean a month reckoned according to the British Calendar.

The Assessing Officer not being impressed by the claim of the Assessee, disallowed the exemption claimed u/s. 54EC of the Act by holding that a perusal of section 54EC of the Act shows that the investment in bonds should be made "at any time within a period of six months after the date of such transfer". Thus, a period of six months from the date of transfer is afforded to the Assessee to purchase the bonds which in the instant case commences from 16.10.2013 and ends on 14.04.2014. The Assessing Officer further held that the language of the Act is quite clear and does not call to define the term 'month'. The word 'month' in the section clearly stands for time period.

3. The Assessee, being aggrieved with the denial of exemption u/s. 54EC of the Act, preferred first appeal before the Id. Commissioner, who vide impugned order, while dismissing the appeal of the

Assessee, affirmed the order of the Assessing Officer by concluding as under:

"5. Decision and Reasons:-

I have perused the assessment order, the grounds of appeal and the submissions of the Ld. AR. All the grounds of appeal relate to the dispute arising out of perceived delay on part of the appellant in depositing the sale consideration of the property sold u/s 54EC of the IT Act, 1961, as held by AO in his assessment order dated 21.12.2016.

Briefly the facts are the appellant sold his share of property on 15.10.2013 and his share was Rs. 1,38,78,150/- out of which he apparently purchased NHAI bonds on, as per the details submitted on 29.04.2014.

The AO has calculated six months from the date of transfer in accordance with actual calculation starting from 16.10.2013 (date of transfer being 15.10.2013) and the period of six months ends on 14.04.2014. Since, the NHAI Bonds of purchase on 29.04.2014, he considered the date of purchase of Bonds as beyond the period of six months and disallowed the claim.

The Appellant on the other hand relied on three judgment of ITAT , Mumbai wherein it has been held that six months would mean complete "month" and not just 180 days as relied upon by Ld. AO. He made reference to General Clauses Act and focused of definition of English calendar month to drive home his argument that in this matter the month is to be considered as complete month and not 180 days as calculated by Ld. AR.

I have considered the matter carefully the word used in the section are, "...at any time within a period of six months from the after the date such transfer...". It is to be noted that if the legislature intended to incorporate calendar month then it would have worded

the said section accordingly. It is pertinent to point out that there are certain sections in the Income Tax Act, 1961 wherein the legislature has intended and provided for the usage, " from the end of the month". Some of such sections mentioned in the Income Tax Act, 1961 are 142A (6), 245D 4 A(iii), 245D (6B) proviso, 254 (2) and section 275.

It is also to be borne in mind that u/s 54EC of the IT Act, 1961, the time period of investment starts from the date of transfer and not from the date of receipt of consideration. Therefore, , there can be no ambiguity or uncertainty as to the date of transfer of the asset as is laid out in the Sale Deed or the Instrument of Transfer, from which the period of six months is to be calculated for availing the benefit of section 54EC of the Act. The clarity of construction regarding said date is intended by the Legislature by itself points to the precise nature of the provision under section 54EC of the Income Tax Act. This clear date of transfer of the asset is therefore quite clear and known to the appellant who is intending to take benefit of section 54EC of the IT Act, 1961. The intended purport of this clarity defines the precise nature and meaning of the provision under the said section 54EC of the I.T. Act,1961. Likewise, the time period of six months has to be calculated in terms of words used by the legislature in the said section which opens the window of tax relief in the specified manner and to be had under the provisions in the section 54EC of the Income Tax Act, 1961 and nothing beyond.

To my mind therefore nothing extraneous can be read into the said provisions which are very specific as intended by the legislature. The ITAT judgments of Mumbai Bench, relied upon by the Learned Counsel of the Appellant, do not persuade me to read the said provision in any other manner which could amount to going beyond the scope of provision of Section 54EC of the Income Tax Act,1961 as such.

Further, the Plea of the Ld. AR that government has accepted the investment in Notified Bonds does not in any way make out a case for the appellant as it is a unilateral action on part of the assessee to purchase the Bonds and the relevant law was required to be interpreted by the Appellant and his counsel before making any such investment. A unilateral Act violating the provisions of the Income Tax Act cannot be justified merely because the investment in NHAI bonds was made.

In view of foregoing discussion the appeal fails and the order of the AO is hereby confirmed.

6. *In the result, the appeal is hereby Dismissed."*

4. Being aggrieved with the impugned order, the Assessee is in appeal before us.

5. The Ld. DR vehemently supported the orders passed by the authorities below.

6. Heard the parties and perused the material available on record. The Assessee, claimed that the investment of Rs. 50 lacs u/s. 54EC of the Act has to be made in totality, but not in pieces and time for investment start from the date of final payment. Because the Assessee did not receive the amount more than Rs.50 lacs in first part and therefore, was unable to invest as per terms of section 54EC of the Act. The Assessee further claimed that the Assessee had received substantive amount of Rs.95.84 lacs only on dated 15.04.2014 and thereafter immediately applied and got allotted the bonds u/s. 54EC of the Act on 29.04.2014 and 30.04.2014 respectively and therefore the claim of the Assessee is maintainable being invested within the time prescribed in law. We are not impressed by said claim of the Assessee,

as there is no such bar prescribed under section 54EC of the Act. The provisions itself reflects that investment can be made as a whole or in part of the capital gains. We are in concurrence with the determination made by the Id. Commissioner that as per section 54EC of the Act, the time period of investment starts from the date of transfer and not from the date of receipt of consideration.

Coming to the period of six months calculation, Hon'ble Coordinate Benches of the Mumbai Tribunal in the case of Neela S. Karyakarte vs. ITO (ITA No. 7548/Mum/2012, Aquatech Engineers vs. Addl. CIT (ITA No. 8029/Mum/2011 and NiamatMahroofVirji vs. ITO (ITA No. 1964/Mum/2014), dealt with the definition of six months as prescribed u/s. 54EC of the Act and clearly held that 'six months' have to be interpreted as 'six calendar months' and not 180 days.

Admittedly the provisions of section 54EC of the Act are beneficial provisions to encourage investments in Govt. bonds and for the benefits of the claimants therefore the purpose of introduction of the provisions in the section has to be kept in mind while granting incentive and/or exemption and thus the Hon'ble Courts have interpreted the provisions in its right perspective.

In the instant case, the sale deed was made in the month of October, 2013 therefore, the Assessee was supposed to invest u/s. 54EC of the Act within 'six calendar months' starting from November onwards and upto the month of April, 2014, which in the instant case has been done by the Assessee on dated 30.04.2014, accordingly the Assessee is entitled to get the benefit of exemption u/s. 54EC of the Act. Consequently, the addition of Rs.50 lacs made by the Assessing Officer and affirmed by the Id. Commissioner is deleted.

[7]

7. In the result, the appeal filed by the Assessee is allowed.

Order pronounced in the open court on 30/06/2022

Sd/-

(ANIL CHATURVEDI)
ACCOUNTANT MEMBER

Sd/-

(N.K. CHOUDHRY)
JUDICIAL MEMBER

*aks/-