

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ  
IN THE INCOME TAX APPELLATE TRIBUNAL  
Visakhapatnam Bench, Visakhapatnam

Before Shri Ravish Sood, Judicial Member  
and  
Shri Omkareshwar Chidara, Accountant Member

आ.अपी.सं /ITA No.13/Viz/2026  
(निर्धारण वर्ष/Assessment Year:2018-19)

Siva Brahma Narayana Chowdary Bodepudi, Vijayawada. PAN: AFWPB3834L	Vs.	The Assistant Commissioner of Income Tax, Central Circle, Vijayawada.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri M V Prasad, CA	
राजस्व द्वारा/Revenue by:	Shri K Prasad, Sr AR	
सुनवाई की तारीख/Date of Hearing:	05/05/2026	
घोषणा की तारीख/Date of Pronouncement:	13/05/2026	

आदेश / ORDER

**PER. RAVISH SOOD, JM:**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), Visakhapatnam-3, dated 06/11/2025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under section 143(3) of the Income Tax Act, 1961 (for short, "the Act"), dated 25/05/2021 for

the Assessment Year (AY) 2018-19. The assessee has assailed the impugned order of the CIT(A) on the following grounds of appeal:

1. “The learned CIT (Appeals) is erred in facts and law while passing the order.
2. The Learned CIT(Appeals) erred in confirming the disallowance of deduction U/s 54F of Rs.1,73,49,248/-.
3. On the facts and circumstances of the case, Learned CIT(A) is not justified in denying the exemption U/s 54F with a wrong finding that property purchased is not a residential property as it is nursing home.
4. On the facts and circumstances of the case, the order passed is with surmises and conjectures.
5. On the facts and circumstance of the case, the Learned CIT(A) ought to have appreciated that the case has been selected for scrutiny without finding any incriminating material in the survey operation and also against CBDT circulars and therefore would have treated assessment made as invalid.
6. On the facts and circumstance of the case, the Learned CIT(Appeals) is not justified in accepting the decision of the Assessing Officer on disallowing the exemption claimed U/s 54F based on the Assessee's letter which was given with misapprehension of law and facts.
7. Any other ground or grounds that may be urged at the time of hearing of the appeal.”

2. Succinctly stated, the assessee, who is a Doctor by profession and Managing Director of the company, viz., M/s. Vignesh Super Specialty Hospitals Private Limited is also running a pharmacy in the name of M/s. Vignesh Medicals had filed his return of income for AY 2018-19 on 31/07/2018, declaring an income of Rs. 27,21,230/-. The assessee's return of income was processed under section 143(1) of the Act.

3. Subsequently, a survey under section 133A of the Act was conducted on M/s. Vignesh Super Specialty Hospital Private Limited,

Vijayawada, on 21/03/2019. Thereafter, the case of the assessee was selected for compulsory scrutiny assessment and notice under section 143(2) of the Act, dated 18/03/2019, was served upon the assessee.

4. During the course of the assessment proceedings, the AO observed that the assessee had in the subject year claimed a deduction under section 54F of the Act of Rs. 1,73,49,248/-. It was observed that the aforesaid deduction under section 54F was claimed regarding an investment made by the assessee in a new asset, viz., an undivided and unspecified joint share of 405 sq yds out of the total extent of 1620 sq yds and a third-floor RCC structure in 4750 sq ft at Prajasakthi Nagar, Vijayawada. The AO observed that the assessee had made an investment in the aforesaid new asset of Rs. 2,50,00,000/-. Considering the fact that the investment made by the assessee in the new asset was lower than the net consideration on the sale of the capital asset of Rs. 3,91,70,000/-, the AO restricted the assessee's claim for deduction under section 54F on a pro rata basis, i.e., to an amount of Rs. 1,10,73,046/-. Accordingly, the AO, based on his aforesaid observation, concluded that the balance amount of long-term capital gains (LTCG) of Rs. 62,76,202/- (Rs. 1,73,49,248/- – Rs. 1,10,73,046/-) was not eligible for deduction under section 54F of the Act.

5. Thereafter, the AO observed that the assessee, in his statement recorded under section 133A of the Act, dated 21/03/2019, vide his reply to Question Nos. 5 to 7, has stated that he was not eligible for the claim of deduction raised by him in his return of income under section 54F of Rs. 1,73,49,248/- for the subject year, i.e., AY 2018-19. Also, the assessee had promised to recompute his income, disclose the correct taxable income, and pay taxes on the same. As the assessee in his return of income for the subject year had not computed the income tax liability in consonance with the disclosure made by him in his statement recorded under section 133A of the Act, the AO vide a show cause letter, dated 16/02/2021, called upon him to put forth an explanation regarding the same. In reply, the assessee claimed that the subject property, purchased by him, comprised a running hospital along with a residential house owned by the previous owner. Elaborating further on his contention, it was submitted that, though the subject property was perfectly usable for residential accommodation, it required structural modifications for running the hospital. The assessee submitted that he was in the course of the statement recorded under section 133A of the Act, told by the Income Tax Officials about the non-admissibility of the claim of deduction under section 54F of the Act, as the subject property was demolished, and as a result, he had agreed to pay the

corresponding taxes. Elaborating further, it was stated by him that as he was not a tax professional but a Doctor, he had no idea about his eligibility for claim of deduction under section 54F of the Act, and had thereafter gathered that as the subject property was not alienated but demolished, the same would not have any bearing on his entitlement towards the aforesaid claim of deduction.

5. Ostensibly, the AO declined the assessee's claim for deduction under section 54F of the Act for three reasons, viz., (i) that as the new residential asset purchased by the assessee to claim deduction under section 54F of the Act is a part of Nursing Home, where the assessee held the rights with regard to third floor which was constructed by the earlier owner, thus, the said property being a part of a nursing home is not a residential property; (ii) that the assessee has not produced any evidence on record to conclusively prove that the Nursing Home is a residential asset; and (iii) that as the assessee had demolished the new asset during the immediately preceding year, i.e., Financial Year 2018-19 and constructed a commercial property in its place, thus, the same was violative of the condition stipulated to claim deduction under section 54F of the Act. Accordingly, the AO, based on his aforesaid deliberations, declined the assessee's claim for deduction under section 54F of the Act of Rs. 1.73 crores (approx.).

6. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success. For the sake of clarity, we deem it fit to cull out the observations of the CIT(A) as under:

“6.1. The appeal arises from the order dated 25.05.2021 passed under section 143(3) of the Income-tax Act, 1961 by the Assistant Commissioner of Income Tax, Central Circle, Vijayawada in the case of Dr. B. Siva Brahma Narayana Chowdary Bodepudi for the assessment year 2018-19. The appellant is a Doctor by profession, Managing Director of M/s. Vignesh Super Speciality Hospitals Pvt. Ltd., Vijayawada, and also runs a proprietary concern in the name of M/s. Vignesh Medicals. The return of income was filed on 31.07.2018 declaring a total income of Rs. 27,21,230, which was processed under section 143(1). Subsequently, a survey under section 133A of the Act was conducted on 21.03.2019 in the case of M/s. Vignesh Super Speciality Hospitals Pvt. Ltd., and consequently, the appellant's case was selected for compulsory scrutiny. The assessment was completed determining the total income at Rs. 2,00,70,478, making an addition of Rs. 1,73,49,248 on account of disallowance of exemption claimed under section 54F of the Act.

6.2. The appeal has been filed against the above assessment order. There was a delay of 63 days in the filing of the appeal. The appellant explained that the delay occurred due to technical difficulties in the income tax e-filing portal, though the appeal fee was paid within time. Considering the reason cited, the delay in filing the appeal is condoned, and the appeal is admitted for adjudication on merits.

6.3. The appeal was first received from the NFAC and taken up for verification on 16.02.2022 and thereafter on 02.04.2022 notice of hearing under section 250 of the Act was issued to the appellant. Further, hearing notices under section 250 were issued on 20.11.2024 fixing hearing on 05.12.2024, and again on 27.10.2025 fixing hearing on 30.10.2025. Despite issue of repeated notices through the ITBA system, the appellant neither filed any written submissions nor sought adjournment. The case is, therefore, decided on merits on the basis of material available on record and the contentions raised in the appeal memorandum.

6.4. The appellant has raised multiple grounds of appeal. Grounds 1 & 7 are general in nature and do not call for separate adjudication. Ground Nos. 2 to 6 are inter-related and revolve around the single substantive issue of disallowance of exemption under section 54F of the Act. Grounds 2 and 3 challenge the finding of the Assessing Officer that the property purchased was not a residential house, contending instead that it was duly supported by sanctioned building plans and

municipal tax records. Ground 4 questions the assessment as being based on surmises and conjectures, while Ground 5 alleges that the scrutiny proceedings were initiated without any incriminating material. Ground 6 further pleads that the statement given during survey under section 133A was made under a mistaken belief of law and should not have been relied upon for disallowance. Since all these grounds arise from a common set of facts and relate to the computation of capital gains and eligibility of deduction under section 54F, they are considered together for the sake of convenience and are disposed of by a composite discussion in the ensuing paragraphs.

6.5. I have carefully perused the findings recorded by the Assessing Officer. The facts emerging from record show that the appellant sold a long-term capital asset for a consideration of Rs. 3,91,70,000 and, after deducting indexed cost of acquisition and expenses, arrived at a long-term capital gain of Rs. 1,73,49,248, which was claimed as exempt under section 54F. The appellant claimed that he invested the consideration in a new asset described as "Undivided and unspecified joint share of 405 sq. yds, out of total extent of 1620 sq. yds. and third-floor RCC structure in 4750 sq. ft. at Prajasakthi Nagar, Vijayawada". The Assessing Officer noted that the assessee invested only Rs. 2,50,00,000 of the total consideration of Rs. 3,91,70,000 and therefore computed the proportionate exemption under section 54F(1)(b) at Rs. 1,10,73,046 and disallowed Rs. 62,76,202. Further, it was found that the property in which investment was claimed was a part of a nursing home building and not a purely residential property. During the course of survey, the appellant himself admitted in his statement recorded on 21.03.2019 that the property was demolished as it was not suitable for hospital modification and that he was not eligible for exemption under section 54F, agreeing to pay the tax. However, the said income was not offered in the return of income.

6.6. The appellant's plea that the statement was given under a mistaken impression and that the property is residential in nature is not supported by any document. No material such as municipal approval or ownership record showing it as a residential house has been produced either during assessment or appellate proceedings. On the contrary, the finding of the Assessing Officer that the said floor forms part of a nursing home structure remains uncontroverted. It is also undisputed that the new asset was demolished during the same financial year, and construction of a new commercial building was commenced. This clearly violates the basic condition of section 54F which mandates that the new residential house must be purchased or constructed within the stipulated time and held for at least three years. The demolition and commencement of a commercial construction disentitle the assessee from exemption.

6.7. On a consideration of the entire facts and applicable law, I find that the Assessing Officer has rightly restricted the exemption

proportionately and further denied the balance claim under section 54F. The conditions under section 54F are cumulative and must be strictly complied with. The property must be of residential character and must continue to be held as such. The appellant has failed to demonstrate that these requirements are satisfied. The admissions made during survey, supported by the absence of contrary evidence, justify the finding of the Assessing Officer. In the absence of any rebuttal or further evidence even at this appellate stage, the disallowance of Rs. 1,73,49,248 made by the Assessing Officer towards exemption claimed under section 54F is found to be legally and factually sustainable. The argument that there is no incriminating material does not have any merit as the assessment u/s 143(3) has been made under "Compulsory Scrutiny".

6.8. Accordingly, I hold that the appellant is not eligible for exemption under section 54F of the Act, and the addition made by the Assessing Officer is confirmed. Since the appellant has failed to respond to repeated hearing notices, the appeal is decided ex parte on merits. There being no valid ground to interfere with the assessment order, the appeal is dismissed.

7. In the result, the appeal is dismissed.”

7. The assessee aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

8. We have heard the Learned Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncement that has been pressed into service by the Ld. AR to drive home his contentions.

9. Shri M V Prasad, CA, Learned Authorized Representative (for short, “Ld. AR”) for the assessee, at the threshold of hearing of the appeal, submitted that the assessee’s claim for deduction under section 54F had been declined by the AO primarily for two reasons, viz., (i) that

new residential asset purchased by the assessee (on third floor) being a part of a Nursing Home did not fall within the meaning of a residential property; and (ii) that the assessee had demolished the new property in the immediately succeeding year, i.e., Financial Year 2018-19 and constructed a commercial property, which, thus disentitled him from claim of deduction under section 54F of the Act. Elaborating on his contention, the Ld. AR submitted that both the observations of the AO, which were thereafter summarily upheld by the CIT(A), suffer from serious infirmities. The Ld. AR submitted that the AO, while framing the assessment, had himself observed that the assessee had purchased a new residential asset forming part of a Nursing Home (Page-2/Para 9(i) of the assessment order). The Ld. AR submitted that now when the AO had, inter alia, declined the assessee's claim for deduction under section 54F for the reason that the new residential asset purchased by the assessee was not eligible for claim of deduction under section 54F of the Act as the same was a part of Nursing Home, it is incomprehensible as to how he could have thereafter observed that the assessee had failed to produce any evidence which conclusively proves that the third floor of the said property was being used as a residential asset. Apart from that, the Ld. AR had drawn our attention to the copy of the approved plan of the building purchased by the assessee vide registered deed, dated

22/02/2018, from, viz., (i) Dr. M.A. Saleem; and (ii) Dr. Smt. Lakshmi Saleem, which revealed that the third floor of the subject property was approved way back on 27/03/1999 as a residential portion, Page 103 and 104 of APB. The Ld. AR, based on the aforesaid facts, submitted that it is an admitted fact that the third floor of the subject property purchased by the assessee is a residential unit.

10. Coming to the second facet of the controversy, the Ld. AR submitted that the demolition of the subject property by the assessee in the immediately succeeding year, i.e., Financial Year 2018-19, will have no bearing on the allowability of the assessee's claim of deduction under section 54F of the Act. Elaborating on his contention, the Ld. AR submitted that as the allowability criteria for claiming deduction under section 54F of the Act had been satisfied by the assessee, the subsequent demolition of the subject new property by him in a succeeding year, will have no bearing on the said claim of deduction during the year under consideration. The Ld. AR to support his contention had pressed into service the order of the ITAT, Mumbai in Dilip Manohar Parekh Vs. DCIT-21(3), Mumbai (2017) 83 taxmann.com 22 (Mumbai). Elaborating further on his contention, the Ld. AR submitted that though sub-section (3) of section 54F of the Act contemplates that if the assessee transfers the new asset 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 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. The Ld. AR based on his contention had come forth with two contentions, viz., (i) that as the demolition of the subject property did not tantamount to transfer of the new asset, therefore, the provisions of sub-section (3) to section 54F of the Act would not get triggered; and (ii) alternatively, sub-section (3) of section 54F of the Act gets triggered not in the year in which the assessee had claimed deduction under section 54F but in the year in which the new asset is transferred by the assessee. The Ld. AR submitted that the AO had grossly erred in law and facts of the case in declining the assessee's claim for deduction under section 54F of the Act based on his aforesaid two-fold observations. The Ld. AR submitted that though he has assailed declining of his claim for deduction under section 54F of the Act at Rs.1,73,49,248/-, but considering the fact that as only a part of the sale consideration of the capital asset transferred amounting to Rs.2.50 crores (out of Rs.3,91,70,000/-) was invested towards purchase of the

new asset, the said claim of deduction was being restricted to the extent of Rs.1,10,73,046/-.

11. Per contra, Shri Sri K. Prasad, Learned Senior Departmental Representative (for short, "Ld. Sr-DR") relied upon the orders of the authorities below. It was submitted that as the assessee had purchased a Nursing Home, the AO had rightly declined his claim for deduction under section 54F of the Act, which thereafter had been upheld by the CIT(A). Apart from that, the Ld. Sr-DR vehemently submitted that as the assessee had demolished the subject property in the succeeding year, the same was violative of the allowability criteria, which disentitled him from claiming a deduction under section 54F of the Act. However, the Ld. Sr-DR on specifically being confronted with the fact that the AO at Para-9(i)/Page-3 of the assessment order had, inter alia, declined the assessee's claim for deduction under section 54F of the Act for the reason that the new residential asset purchased by the assessee was a portion of a nursing home, failed to come forth with any explanation on the said aspect. Apart from that, the Ld. Sr-DR, on being queried as to under what provision the subsequent demolition of the property by the assessee would disentitle him from claiming the deduction under section 54F of the Act during the year under consideration, failed to come forth with any reply.

12. We have given thoughtful consideration to the contentions advanced by the Learned Authorized Representatives of both parties.

13. Coming to the first facet of the issue involved in the present case, i.e., as to whether or not the assessee had made an investment towards purchase of a residential house, we find that the AO had at Page-3/Para-9(i) of the assessment order while declining the assessee's claim for deduction under section 54F, inter alia, observed that the new residential asset purchased by the assessee to claim exemption under section 54F of the Act is a part of a Nursing Home. Apart from that, we find that on perusal of the approved plan of the building purchased by the assessee from viz., (i) Dr. M.A. Saleem; and (ii) Dr. Smt. Lakshmi Saleem at Prajasakti Nagar, Vijayawada, reveals beyond doubt that the third floor of the subject property was approved as a residential property, Pages-103 to 104 of APB.

14. Coming to the second facet of the issue involved in the present appeal, i.e., as to whether or not the subsequent demolition of the new asset purchased by the assessee in the immediately succeeding year, i.e., Financial Year 2018-19 would have any bearing on his eligibility for claiming deduction under section 54F of the Act, we are unable to persuade ourselves to concur with the view taken by the lower authorities.

15. At the threshold, we may herein observe that sub-section (3) of section 54F of the Act contemplates that 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 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. At this juncture, we may herein observe that sub-section (3) gets triggered only where the new asset, based on which the assessee had claimed deduction under section 54F, is transferred by him within a period of three years from the date of its purchase or construction. However, in the case before us, as the assessee had demolished the subject property, i.e., the new asset, and not transferred the same, the provisions of sub-section (3) of section 54F cannot be brought into play.

16. Apart from that, we are of the view that even if it is to be presumed that sub-section (3) of section 54F of the Act is applicable in the case of the assessee pursuant to the demolition of the subject property, then the same, even in such case, would get triggered not for disentitling the assessee from claiming deduction under the said section, but would be

applicable for charging the said amount of capital gains to tax in the year in which the said new asset had been transferred by him.

17. Be that as it may, we concur with the Ld. AR that the demolition of the subject property (new asset) by the assessee in the succeeding year cannot divest him from claiming the deduction under section 54F of the Act during the year under consideration. Our view is supported by the order of ITAT, Mumbai in **Dilip Manohar Parekh Vs. DCIT-21(3), Mumbai (2017) 83 taxmann.com 22 (Mumbai)**.

18. We may further observe that the conviction of the AO that as the new residential asset (part of the subject new property) purchased by the assessee formed part of a Nursing Home, thus disentitled him from claiming deduction under section 54F of the Act, the same does not find favor with us. We say so, for the reason that as the assessee had invested an amount of Rs.2.50 crores (supra) towards purchase of the new property (residential property) which though forms part of a building, housing a Nursing Home, the same cannot disentitle the assessee from raising the claim of deduction under section 54F of the Act, in so far the subject investment is made by him in the residential property.

19. We thus, in terms of our aforesaid deliberations are unable to principally concur with the view taken by the authorities below and allow the assessee claim for deduction under section 54F of the Act of

Rs.1,10,73,046/-, i.e., proportionate to the investment made by him in the new asset of Rs.2.50 crores (supra) as against the sale consideration of the long term capital asset sold by him for a consideration of Rs. 3,91,70,000/-.

20. In the result, the appeal filed by the assessee is partly allowed in terms of our aforesaid deliberations.

Order pronounced in the open court on 13<sup>th</sup> May, 2026.

<b>Sd/- (OMKARESHWAR CHIDARA) ACCOUNTANT MEMBER</b>	<b>Sd/- (RAVISH SOOD) JUDICIAL MEMBER</b>
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Hyderabad,  
Dated 13<sup>th</sup> May, 2026  
\*OKK / SPS

Copy to:

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1	Siva Brahma Narayana Chowdary Bodepudi D. No. 29-14-52/A, Vignesh Hospitals, Prakasam Road, Pushpa Hotel Centre, Vijayawada Andhra Pradesh-520002
2	The Assistant Commissioner of Income Tax, Central Circle, Vijayawada Revenue Colony Road, Siddhartha Public School Road, Mogalrajpuram, Vijayawada, Andhra Pradesh-520010
3	The Pr. Commissioner of Income Tax,
4	The DR, ITAT, Visakhapatnam Bench
5	Guard File



KAMALA KUMAR  
ORUGANTI

**TRUE COPY**

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**SENIOR PRIVATE SECRETARY  
ITAT, VISAKHAPATNAM**