

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ DB-A ‘ Bench, Hyderabad

श्री रविश सूद, न्यायिक सदस्य एवं श्री मधुसूदन सावड़िया लेखा सदस्य समक्ष।
Before Shri Ravish Sood, Judicial Member
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.1799/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2009-10)

Shri Mekala Sharath Reddy (HUF) Hyderabad PAN: AAKHM9042H (Appellant)	Vs.	Dy. CIT Circle 9(1) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri Akash Deshpande, CA	
राजस्व द्वारा / Revenue by::	Shri AVES Madhukar, Sr. AR	
सुनवाई की तारीख / Date of hearing:	16/03/2026	
घोषणा की तारीख / Pronouncement:	25/03/2026	

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

This appeal is filed by Shri Mekala Sharath Reddy (HUF) (“the assessee”), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi (“Ld. CIT(A)”) dated 28.08.2025 for the A.Y.2009-10.

2. The assessee has raised the following grounds of appeal:

1. The order passed by the learned Commissioner of Income Tax (Appeals), NFAC ("CIT(A)"), under section 250 of the Income Tax Act, 1961 ("the Act"), insofar as it is against the Appellant, is opposed to law, weight of evidence, natural justice and preponderance of probabilities on the facts and circumstances of the Appellant's case.
2. The impugned assessment proceedings are *non est*, bad in law and without jurisdiction on the facts and circumstances of the case.
3. The mandatory procedures applicable for assessment proceedings are not followed and consequently, the impugned proceedings are *void ab initio* on the facts and circumstances of the case.
4. The notice issued under section 143(2) of the Act is *non est* and bad in law on the facts and circumstances of the case.
5. The impugned order passed under section 143(3) r.w.s 254 r.w.s. 144B of the Act is *non est*, bad in law and passed in violation of principles of natural justice and consequently, the impugned order is liable to be annulled on the facts and circumstances of the case.
6. The Appellant denies himself liable to be assessed at a total income of Rs. 1,50,43,430/- as against Rs. 50,69,730/- on the facts and circumstances of the case.
7. The learned CIT(A) erred in law and on facts in upholding the disallowance amounting to Rs. 99,73,700/- claimed as exemption under 54F of the Act on the facts and circumstances of the case.
8. The authorities below failed to appreciate that the Appellant has satisfied the conditions stipulated under section 54F of the Act and consequently, is entitled to claim exemption on the facts and circumstances of the case.
9. The authorities below are not justified in treating the entire sale consideration as taxable on the facts and circumstances of the case.
10. The Appellant denies himself liable to pay interest under section 234B and 234C of the Act on the facts and circumstances of the case.

The Appellant craves to add, alter, modify, substitute, change and delete any or all of the grounds and to file a paper book at the time of hearing the appeal.

In the view of the above and other grounds that may be urged at the time of the hearing of appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.

Place: Hyderabad

Date: 30.10.2025

Appellant

3. The brief facts of the case are that the assessee is an individual who filed his return of income for the Assessment Year 2009–10 on 27.07.2009 declaring total income of Rs.50,69,730/-. During the year under consideration, the assessee had sold an immovable property for a consideration of Rs.1,50,00,000/-. After claiming indexed cost of acquisition of Rs.1,73,704/-, the assessee computed long-term capital gain at Rs.1,48,26,296/-. After claiming deduction under section 54 of the Income Tax Act, 1961 (“the Act”), the net capital gain of Rs.50,26,296/- was offered to tax by the assessee. This is the second round of appeal before this Tribunal. In the first round, the Learned Assessing Officer (“Ld. AO”) passed the assessment order on 27.12.2011, wherein the entire receipt of Rs.1,50,00,000/- was brought to tax in the hands of the assessee. Aggrieved by the order of the Ld. AO, the assessee had preferred an appeal before the Ld. CIT (A) and finally before this Tribunal. The Tribunal vide order dated 31.01.2020 in ITA No. 860/Hyd/2013 had restored the issue to the file of the Ld. AO with specific directions to examine the claim of deduction under section 54F of the Act as per law. During the set-aside proceedings, the Ld. AO issued notices to the assessee. However, the assessee did not comply with the notices issued by the Ld. AO. Accordingly, the Ld. AO completed the assessment under section 143(3) read with section 254 and section 144B of the Act vide order dated 14.09.2021, assessing the income of the assessee at Rs.1,50,43,430/-.

4. Aggrieved by the order passed by the Ld. AO, the assessee filed an appeal before the Ld. CIT(A). During the appellate proceedings, the Ld. CIT(A) called for a remand report from the Ld. AO. After considering the submissions made by the assessee as well as the remand report of the Ld. AO, the Ld. CIT(A) dismissed the appeal of the assessee and upheld the action of the Ld. AO.

5. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before this Tribunal. The Learned Authorized Representative ("Ld. AR") submitted that the solitary issue involved in the present appeal is the rejection of the claim of the assessee for deduction under section 54F of the Act amounting to Rs.99,73,700/-. The Ld. AR submitted that the Ld. CIT(A) has rejected the claim of the assessee broadly on following three counts:

- (a) that the claim of deduction under section 54F of the Act is not allowable since the assessee has invested in multiple residential units and the deduction is allowable only in respect of one residential house.
- (b) that the assessee has constructed multiple independent residential units in deviation from the plan approved by the statutory authority and therefore the construction cannot be considered as eligible residential house for the purpose of section 54F.
- (c) that the assessee has failed to produce complete bank statements for the relevant period evidencing the utilisation of funds towards construction of the residential units.

6. Addressing the first objection of the Revenue, the Ld. AR submitted that the assessee had constructed a multi-floor residential building consisting of 13 residential units and the investment made therein qualifies for deduction under section 54F of the Act. The Ld. AR further submitted that for the Assessment Year 2009–10, the provisions of section 54F of the Act as they existed prior to amendment by the Finance Act, 2014 are applicable. It was submitted that prior to the amendment, the expression used in the statute was “a residential house”, whereas by the amendment made by the Finance Act, 2014 with effect from 01.04.2015, the expression was substituted by “one residential house in India”. It was also submitted that since the present case relates to Assessment Year 2009–10, the amended provisions are not applicable and the pre-amended provisions should be applied to the case of the assessee. The Ld. AR submitted that the expression “a residential house” has been interpreted by Courts and Tribunals to include multiple residential units and therefore the claim of deduction cannot be denied merely on the ground that the investment is made in more than one unit. In support of this contention, the Ld. AR relied upon the following judicial precedents:

- (a) *Decision of the Hon’ble Andhra Pradesh High Court in the case of CIT Vs. Syed Ali Adil , 352 ITR 418.*
- (b) *Decision of the Hyderabad ITAT in the case of Vittal Krishna Conjeevaram Vs. ITO, 36 Taxmann.com 542.*

- (c) *Decision of the Hon'ble Bombay High Court in the case of Krishnagopal B. Nangpal Vs. DCIT, 484 ITR 272.*

6.1 The Ld. AR further submitted that though the decision of the Hon'ble Bombay High Court is rendered in the context of section 54, the principle laid down therein is equally applicable to section 54F since the language used in both provisions is identical for the relevant period.

7. Addressing the second objection of the Revenue, the Ld. AR submitted that the provisions of section 54F of the Act do not prescribe any condition that the construction must strictly conform to the plan approved by the statutory authority. It was submitted that the Income Tax Act does not impose any embargo that deduction shall not be allowed in case of deviation from approved plans. In support of this contention, the Ld. AR relied the decision of the Chennai Bench of the Tribunal in the case of B. Slvasubramanian Vs. ITO (45 taxmann.com 74) and the decision of the Mumbai Bench of the Tribunal in the case of ACIT Vs. Sanjay B. Pahadia (ITA No.6099/Mum/2014 dated 11.01.2017). Accordingly, the Ld. AR submitted that these decisions clearly hold that absence of approval or deviation from approved plan cannot be a ground to deny deduction under section 54F of the Act.

8. Addressing the third objection of the Revenue, the Ld. AR submitted that the assessee has furnished a valuation report which clearly establishes that the construction of the residential

units was carried out during the period from November 2008 to July 2009, which falls within the prescribed period under section 54F of the Act. It was further submitted that the lower authorities have not disputed the correctness or validity of the valuation report. The Ld. AR contended that if the Revenue had any doubt regarding the source of investment, appropriate action could have been taken under the provisions relating to unexplained investment. However, for the purpose of section 54F of the Act, the requirement is only regarding investment within the prescribed period, which stands duly established. Finally, the Ld. AR prayed before the Bench to allow the deduction of Rs.99,73,700/- under section 54F of the Act.

9. Per contra, the Learned Departmental Representative ("Ld. DR"), on the other hand, relied upon the orders of the lower authorities and submitted that the deduction under section 54F of the Act is allowable only in respect of investment in one residential house and not multiple units. The Ld. DR further submitted that the construction carried out by the assessee was not in accordance with the approved plan and therefore the same cannot be considered as eligible for deduction. It was also submitted that the assessee has failed to furnish complete bank statements evidencing the investment made in construction and therefore the claim has rightly been rejected by the lower authorities. Finally, the Ld. DR prayed before the Bench to uphold the orders of the lower authorities.

10. We have heard the rival submissions and perused the material available on record including the case laws relied upon. The solitary issue before us relates to the allowability of deduction under section 54F of the Act in respect of investment made in construction of multiple residential units. As far as the first contention of the assessee regarding applicability of the provision of unamended section 54F of the Act is concerned, we find merits in the submissions of the Ld. AR that for the Assessment Year under consideration, the provisions prior to amendment by the Finance Act, 2014 are applicable, wherein the expression used was “a residential house”. In this regard, we have gone through para nos.12 and 13 of the judgment of the Hon’ble Bombay High Court in the case of Krishnagopal B. Nangpal vs. DCIT (Supra), which is to the following effect:

“12. For purpose of the present appeal, what is relevant is replacement of the expression 'a residential house' by the expression 'one residential house' by way of 2014 amendment. Prior to the 2014 amendment, capital gains arising from transfer of a long term capital asset, including a residential house, qualified for exemption if the same was invested for purchase or construction of 'a residential house'. The department has disallowed the claim of the Assessee for adjustment of the entire capital gain arising of sale of the flat in Mumbai, on the ground that the Assessee has purchased seven row houses in project at Pune. According to the department, exemption under Section 54 (1) of the Act is applicable only in respect of investment made in purchase of only one residential house and is not permissible for the purchase of multiple residential houses. The ITAT has accordingly granted the benefit of Section 54(1) of the Act in respect of one of the seven row houses purchased by the Assessee.

13. In our view, the amendment brought in by Finance (No.2) Act 2014 makes the position clear that after the amendment,

the capital gains can be adjusted against purchase of only 'one' residential house. The word 'a' is consciously replaced by the legislature by the word 'one' by way of amendment making the intention clear that after the amendment, it is impermissible to adjust the capital gains arising out of one house towards purchase of more than one houses. If the restriction of adjustment of capital gains against only one house was already there in the unamended Section 54(1), there was no necessity of amendment by specifically using the word 'one'."

11. On perusal of the above, we find that the Hon'ble High Court has clearly held that the substitution of the word "a" by the word "one" is prospective in nature and indicates that prior to amendment, there was no restriction limiting the deduction to a single residential unit. Though the said decision was rendered in the context of section 54 of the Act, we find that the relevant language used in section 54F of the Act is *pari materia* and therefore the ratio laid down by the Hon'ble Bombay High Court would squarely apply to the present case. Accordingly, respectfully following the judicial precedent laid down by the Hon'ble Bombay High Court, we hold that for Assessment Year 2009–10, deduction under section 54F of the Act cannot be denied merely because the assessee has constructed multiple residential units. Accordingly, the first contention of the assessee is accepted.

12. As far as the 2nd contention of the assessee with regard to construction as per plan approved by the statutory authorities is concerned, we have gone through the decisions relied upon by the Ld. AR, particularly para no. 6 of the order of the Chennai Bench of the Tribunal in the case of B. Sivasubramanian Vs. ITO (Supra), which is to the following effect:

“6. We have heard the submissions made by the representatives of both the sides. We have also perused the orders of the authorities below as well as the documents placed on record by the Id Counsel for the assessee. It is not disputed that the assessee is not in possession of plot on which a residential building is in existence. The assessee has allegedly utilized the Long Term Capital Gain arising from the sale of shares towards the construction of a new residential house after demolition of old building on the plot-in-question. The assessee has claimed exemption u/s.54F on the ground that the assessee has invested Long Term Capital Gains arising from sale of shares towards construction of a new house within the prescribed period as mentioned in the Act. However, the contentions of the assessee has been rejected by the authorities below for the reason that the assessee has not placed on record the approved building plan from the Municipal Corporation. The assessee has admitted the fact that the new residential house has been constructed without the approval of the Municipal Corporation. Rather, in support of his contentions, the Id.Counsel for the assessee has placed on record an interim order dated 08-02-2007 from the Corporation of Salem, wherein it has been stated that the assessee has constructed a new building without the permission of the Commissioner of Salem Corporation. The assessee has also placed on record the building plan and the estimation for the construction of a new house of demolition of the existing building.

Reliance cannot be placed on the building plan as it is not approved by any statutory authority. However, the fact that the assessee has constructed a new house is proved by the interim order issued by the Corporation of Salem wherein it has been stated that the assessee has put up a new construction without permission of the Commissioner, Salem Corporation.

The provisions of section 54F mandates the construction of a residential house, within the period specified. However, there is no condition that the building plan of the residential house constructed should be approved by the Municipal Corporation or any other competent authority. If any person constructs a house without approval of building plan, he will be raising construction at his own risk and cost. As far as for availing exemption u/s.54F, approval of building plan is not necessary. The approved building plan, certificate of occupation etc. are sought to substantiate the claim of new

construction. In the present case, the fact that the assessee has raised new construction is evident from the interim order issued by the Corporation of Salem.”

13. We have also gone through para no. 13 of the order of the Mumbai Bench of the Tribunal in the case of ACIT vs. Sanjay B. Pahadia (Supra), which is to the following effect:

“13. Thus, the only dispute that is left to be resolved by us is whether the approach followed by the AO was fair and justified and in accordance with law and facts of this case or not. In this regard, our considered view is that the AO has gone wrong on law as well as on facts. As far as legal position is concerned, the issue before us is whether the assessee is eligible to claim exemption u/s 54/54F on the basis of his investment in acquisition of one residential house property or not. In our considered view, whether the house property is built upon an approved plan or not and whether the two flats have been converted into one after obtaining requisite approvals from the local authorities or not, shall not fall in the domain of Income-tax proceedings, so long as other conditions as prescribed under the law are duly fulfilled. Legal position has been threadbare clarified by Hon'ble Bombay High Court in the judgements relied upon by the Ld. CIT(A) in the case of CIT v. Devdas Naik (supra) as well as CIT v. Raman Kumar Suri (supra) wherein in the similar facts it was held that even if two flats were acquired under two distinct agreements, but if the flats were constructed in such a view that adjacent units of the flats can be combined into one, then the assessee would be eligible to claim the benefit on the entire amount invested in two flats combined into one by the assessee. Thus, on legal principle, the AO's action was not proper, therefore, it has rightly been reversed by Ld. CIT(A).”

14. On perusal of the findings given by the Chennai Bench of the Tribunal in the case of B. Sivasubramanian Vs. ITO (Supra) and the Mumbai Bench of the Tribunal in the case of ACIT vs. Sanjay B. Pahadia (Supra), we find that it has been held by both the Benches of the Tribunal that there is no condition under section 54F of the Act requiring compliance with approved plans of

the statutory authority. We also find that the only condition prescribed under section 54F of the Act is that the assessee should construct a residential house within the prescribed period. The statute does not impose any requirement regarding approval of construction plans. Accordingly, we accept the 2nd contention of the assessee.

15. The third contention of the assessee regarding furnishing of complete bank statements evidencing the investment, we find that the assessee has furnished a valuation report which clearly establishes that the construction was carried out during the period from November 2008 to July 2009, which is within the prescribed period. We further find that the lower authorities have not doubted the correctness of the valuation report. In such circumstances, the claim of the assessee cannot be denied merely on the ground of non-furnishing of bank statements. If the Revenue had any doubt regarding the source of investment, appropriate action could have been taken under the relevant provisions of the Act. Accordingly, the 3rd contention of the assessee is also accepted.

16. In view of the above, we hold that the assessee has duly satisfied the conditions prescribed under section 54F of the Act. Accordingly, we direct the Ld. AO to delete the corresponding addition.

17. In the result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on 25th March, 2026.

Sd/-

Sd/-

(RAVISH SOOD) JUDICIAL MEMBER	(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad, dated 25th March, 2026.

Vinodan/sps

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By Order

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