

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' 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. 1068/Hyd/2026**

(निर्धारण वर्ष / Assessment Year: 2020-21)

Shri Kiran Kumar Grandhe, Hyderabad PAN: AHOPG8663L (Appellant)	Vs.	Income Tax Officer (International Taxation)-1, Hyderabad (Respondent)
निर्धारित द्वारा / Assessee by:	Shri M.V. Prasad, C.A	
राजस्व द्वारा / Revenue by:	Shri K. Prasad, Sr. AR	
सुनवाई की तारीख / Date of hearing:	16/09/2026	
घोषणा की तारीख / Pronouncement:	23/09/2026	

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

This appeal is filed by Shri Kiran Kumar Grandhe ("the assessee"), feeling aggrieved by the assessment order passed by the Assessing Officer under section 147 r.w.s. 144C(13) of the Income Tax Act, 1961 ("the Act") for A.Y. 2020-21, dated 28.01.2026 as per the directions of the Learned CIT (DRP)-1, Bengaluru-2 ("Ld. DRP") dated 27.12.2025.

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

"1. On the facts and circumstances of the case, the order passed by the Ld.AO u/s.147 r.w.s 144C(13) is erroneous and contrary to the law and is liable to be quashed.

2. The Ld.AO erred in making the addition of Rs.49,28,000/- as income of the assessee under Long Term Capital Gain.

3. The Ld.AO/DRP erred in not allowing the assessee's claim of exemption u/s.54F of the Act solely on the ground that the same was not claimed in the Return of Income.

4. The LD.AO/DRP ought to have appreciated the fact that the assessee is entitled to claim lawful deduction or exemption even though the assessee has not claimed in the Return of Income.

5. The LD.AO/DRP action in denying the assessee's claim of exemption u/s 54F is arbitrary and against the principles of natural justice.

6. The Ld.AO/DRP erred in not appreciating the fact that the assessee is eligible for claiming exemption on u/s.54F and ought to have rightly appreciated the documents furnished by the assessee before them.

7. On the facts and circumstances of the case, the notice u/s.148 issued by the Assessing Officer is invalid in law.

8. The appellant craves leave to add, amend or withdraw any ground(s) of appeal at the time of hearing".

3. The brief facts of the case are that the assessee is a non-resident individual who had not filed his return of income for the assessment year 2020-21 under section 139 of the Income Tax Act, 1961 ("the Act"). On the basis of information available with the Department, the Assessing Officer observed that during the year under consideration, the assessee had transferred immovable property. Accordingly, the case of the assessee was reopened under section 147 of the Act and notice under section 148 of the Act dated 31.03.2024 was issued. In response to the said notice, the assessee filed his return of income on 28.06.2024 declaring total income of Rs. 3,130/-. Thereafter, the Assessing Officer issued notice under section 143(2) of the Act dated 15.07.2024. Subsequently, the Assessing Officer passed the draft assessment order under section 144C(1) of the Act dated 15.03.2025, proposing an addition of Rs. 1,00,00,000/- towards short-term capital gain arising from the transfer of the immovable property and

determining the total income of the assessee at Rs. 1,00,03,130/-.

4. Aggrieved by the draft assessment order, the assessee filed objections before the Ld. DRP. The Ld. DRP issued directions under section 144C(5) of the Act dated 27.12.2025, pursuant to which the capital gain arising from the transfer of the immovable property was determined as long-term capital gain of Rs. 49,25,389/- instead of short-term capital gain of Rs. 1,00,00,000/- as proposed in the draft assessment order. Pursuant to the directions of the Ld. DRP, the Assessing Officer passed the final assessment order under section 147 read with section 144C(13) of the Act dated 28.01.2026, making an addition of Rs. 49,25,389/- towards long-term capital gain arising from the transfer of the immovable property.

5. Aggrieved by the final assessment order, the assessee is in appeal before the Tribunal. At the outset, the Learned Authorized Representative ("Ld. AR") submitted that the assessee is not disputing the quantum of the addition of Rs. 49,25,389/- determined as long-term capital gain as well as the year of taxability thereof. He submitted that the limited grievance which the assessee seeks to pursue before the Tribunal is regarding the claim of deduction under section 54F of the Act. It was further submitted that if the claim of the assessee for deduction under section 54F of the Act is admitted and considered in accordance with law, the assessee would not press the other grounds raised in the present appeal, including the additional ground. The Ld. AR further submitted that the assessee had not claimed deduction under section 54F of the Act in the return of income filed in response to the notice issued under section 148 of the Act or before the Assessing Officer.

However, the said claim was subsequently raised before the Ld. DRP. Inviting our attention to para no. 11 of the directions of the Ld. DRP, the Ld. AR submitted that the claim was rejected at the threshold principally on the ground that the assessee had not filed the original return of income under section 139 of the Act and had not claimed the exemption in the return of income. The Ld. AR, relying upon the decision of the Hon'ble Supreme Court in the case of Jute Corporation of India Ltd. Vs. CIT (1991) 187 ITR 688 (SC), submitted that a claim which was not made before the Assessing Officer can nevertheless be raised before the appellate authority. He further submitted that the restriction contemplated by the decision of the Hon'ble Supreme Court in Goetze (India) Ltd. Vs. CIT (2006) 284 ITR 323 (SC) operates in respect of the power of the Assessing Officer to entertain a fresh claim otherwise than by way of a revised return and does not curtail the powers of the appellate authorities. The Ld. AR further submitted that the assessee could not claim deduction under section 54F of the Act either in the return of income filed in response to notice under section 148 of the Act or before the Assessing Officer because, at the inception of the proceedings, the assessee itself was disputing the taxability of the capital gain in the year under consideration. It was only subsequently that the claim under section 54F of the Act became relevant in view of the determination of the capital gain as taxable in the year under consideration. Accordingly, the Ld. AR prayed that the claim of the assessee under section 54F of the Act be allowed.

6. Per contra, the Learned Departmental Representative ("Ld. DR") objected to the admission of the claim for deduction under section 54F of the Act and submitted that the assessee had failed to make such claim in the return of income. Therefore, according to the Ld. DR, the assessee

cannot be permitted to raise such claim subsequently for the first time during the proceedings before the Ld. DRP. The Ld. DR accordingly relied upon the orders of the lower authorities.

7. We have heard the rival submissions and perused the material available on record including the case laws relied upon. At the outset, we take note of the submission of the Ld. AR that the assessee is no longer disputing either the quantum of long-term capital gain of Rs. 49,25,389/- or its taxability in the year under consideration. Thus, the limited issue requiring our consideration is whether the assessee can raise a claim for deduction under section 54F of the Act when such claim was not made in the return of income filed in response to notice under section 148 of the Act or before the Assessing Officer but was raised for the first time before the Ld. DRP.

8. We find that the Hon'ble Supreme Court in the case of Goetze (India) Ltd. Vs. CIT (Supra) considered the question whether an assessee could make a claim for deduction before the Assessing Officer otherwise than by filing a revised return. The Hon'ble Supreme Court held that the Assessing Officer could not entertain such a claim otherwise than by way of a revised return. However, while deciding the issue, the Hon'ble Supreme Court specifically clarified that the said restriction did not impinge upon the power of the Income Tax Appellate Tribunal under section 254 of the Act. Thus, the restriction laid down in Goetze (India) Ltd. (supra) is in relation to the power of the Assessing Officer and does not curtail the power of the Tribunal to entertain an additional claim in an appropriate case. We further find that the Hon'ble Supreme Court in the case of Jute Corporation of India Ltd. Vs. CIT (Supra) has recognized the power of the appellate authority to entertain an additional ground or claim which had not been raised before

the Assessing Officer, subject to the exercise of such discretion in accordance with law.

9. In the present case, we further find merit in the explanation furnished by the assessee for not claiming deduction under section 54F of the Act in the return of income or before the Assessing Officer. The assessee, at the inception of the proceedings, was disputing the very taxability of the capital gain in the year under consideration. Therefore, the assessee did not claim deduction under section 54F of the Act at that stage. In our considered view, when the assessee itself was contesting the taxability of the capital gain in the year under consideration, its failure to make an alternative claim for deduction under section 54F of the Act in the return of income or before the Assessing Officer constitutes a reasonable explanation for raising such claim subsequently for the first time before the Ld. DRP. Merely because the assessee had initially disputed the taxability of the capital gain cannot, by itself, preclude the assessee from making an alternative claim for a statutory deduction when such capital gain is ultimately brought to tax. In the present case, the assessee had raised the claim for deduction under section 54F of the Act before the Ld. DRP, but the same was not examined on merits and was rejected at the threshold on account of the assessee having not made such claim in the return of income. Without going into the question regarding the extent of the power of the Ld. DRP to entertain such an additional claim, we are of the considered opinion that the Tribunal has the power to entertain the said claim in view of the principles laid down by the Hon'ble Supreme Court in *Goetze (India) Ltd.* (supra) and *Jute Corporation of India Ltd.* (supra). Considering the peculiar facts of the present case and the reasonable explanation furnished by the assessee for not making the claim at an earlier stage, we

admit the additional claim of the assessee for deduction under section 54F of the Act.

10. Further, the admission of the claim and allowance thereof are two different aspects. Since the claim for deduction under section 54F of the Act was rejected at the threshold by the Ld. DRP, the factual eligibility of the assessee and fulfilment of the statutory conditions prescribed under section 54F of the Act have not been examined by the lower authorities. The determination of the claim would necessarily require verification of the relevant facts and supporting documentary evidence. Therefore, in our considered opinion, it would be appropriate to restore the issue to the file of the Assessing Officer for such verification. Accordingly, we set aside the issue relating to the assessee's claim for deduction under section 54F of the Act to the file of the Assessing Officer with a direction to examine the eligibility of the assessee for the said deduction, verify the fulfilment of the conditions prescribed under section 54F of the Act on the basis of the material and documentary evidence produced by the assessee, and thereafter allow the deduction to the extent admissible in accordance with law. The assessee shall be at liberty to furnish all necessary documents and explanations in support of his claim. The Assessing Officer shall provide adequate opportunity of being heard to the assessee before deciding the issue.

11. Since we have admitted the substantive claim of the assessee regarding deduction under section 54F of the Act and restored the same for verification and adjudication in accordance with law, and in view of the specific submission of the Ld. AR that the assessee is not disputing the quantum of long-term capital gain or the year of its taxability, we are not inclined to adjudicate the other grounds raised by the assessee,

including the additional ground, at this stage. The same are kept open.

12. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 23rd September, 2026.

Sd/-

Sd/-

(RAVISH SOOD) JUDICIAL MEMBER	(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad, dated 23rd September, 2026.

Pvv/sps

Copy to:

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4	DRP-1, Bengaluru
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order

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RAO

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by VADREVVU

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