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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.3404 OF 2010

The Commissioner of Income Tax – 7, Mumbai ..Appellant
Versus
Dinesh Megji Toprani HUF ..Respondent.

Ms.S.V. Bharucha for the appellant.
Mr.P.J. Pardiwala, Senior Advocate with Mr.Atul K. Jasani for the respondent.

**CORAM : J.P. Devadhar &
A.A. Sayed, JJ.**

DATE : 4th August, 2011.

P.C. :

1. Whether the Income Tax Appellate Tribunal was justified in allowing the benefit of deduction claimed under Section 54F of the Income Tax Act, 1961 is the question raised in this appeal.

2. The assessee HUF had sold certain immovable properties and out of the sale proceeds received, purchased immovable properties and claimed benefit of deduction under Section 54F of the Income Tax Act, 1961. The assessing officer was of the opinion that the property was purchased in the name of the individuals namely Dr.Dinesh Megji Toprani and Mrs.Jyoti Dinesh Toprani and not in the name of the HUF and, therefore, the assessee

was not entitled to the deduction under Section 54F of the Income Tax Act, 1961. On appeal filed by the assessee, the Commissioner of Income Tax (Appeals) allowed the claim of the assessee and by the impugned order, the Income Tax Appellate Tribunal has affirmed the decision of the Commissioner of Income Tax (Appeals). Being aggrieved by the above order, the Revenue has filed the present appeal.

3. In para-10 of its order, the Income Tax Appellate Tribunal has recorded a finding of fact that the immovable property in question has been purchased from the HUF account, that the purchase document records the permanent account number of the HUF and that the income received from the property purchased have been assessed to tax in the hands of the HUF for assessment year 2007-08. In these circumstances, no fault can be found with the decision of the Income Tax Appellate Tribunal in allowing the benefit of deduction under Section 54F of the Income Tax Act, 1961 on the ground that the property purchased in the name of the members of the HUF, in fact belongs to the HUF.

4. Accordingly, we see no merit in the appeal. The appeal is dismissed with no order as to costs.

(A.A. Sayed, J.)

(J.P. Devadhar, J.)