

**[2025] 178 taxmann.com 173 (Hyderabad - Trib.)[03-09-2025]**

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**INCOME TAX : Where assessee sold certain plots and invested sale consideration in new residential property by way of making payments to builder before filing of return, though registration of sale deed of said new residential property was executed after two years, assessee would not be disentitled from claiming deduction under section 54F**



**[2025] 178 taxmann.com 173 (Hyderabad - Trib.)**

**IN THE ITAT HYDERABAD BENCH 'A'**

**Deputy Commissioner of Income-tax**

**v.**

**Syama Reddy Mali Reddy\***

**RAVISH SOOD, JUDICIAL MEMBER**

**AND MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

**I.T. APPEAL NO. 366 (HYD) OF 2025**

**[ASSESSMENT YEAR 2019-20]**

**SEPTEMBER 3, 2025**

**Section 54F of the Income-tax Act, 1961 - Capital gains - Exemption of, in case of investment in residential house (General) - Assessment year 2019-20 - Assessee sold capital assets, viz., 25 plots and four plots and made an investment in new residential house and claimed exemption under section 54F - Assessing Officer disallowed claim of exemption on ground that assessee had failed to invest towards purchase of new house property within prescribed time period of two years from date of transfer of original asset - It was noted that assessee had entered into an agreement for purchase of new residential flat/apartment and had made a payment before filing of her return of income and builder had issued a possession certificate - However, registered sale deed of said new residential property was executed after two years and occupancy certificate was also issued - Whether word 'purchase' as used in sub-section (2) of section 54F is not restricted or confined to a registered sale deed or even to possession, but has a wider connotation - Held, yes - Whether once it was proved that assessee had within prescribed period invested towards purchase of new residential property, then, despite that legal title in said property was not passed or transferred to her within a period of two years from date of sale of old property, it would not disentitle her from claiming deduction under section 54F - Held, yes - Whether however since assessee sold capital assets for a total consideration of Rs. 8.58 crores, however, made an investment of lesser amount in new residential house, Assessing Officer was to be directed to allow his claim of exemption under section 54F in same proportion as cost of new residential house (i.e. investment made within prescribed period) bear to net sale consideration of properties sold by him - Held, yes [Paras 18 and 21] [Partly in favour of assessee]**

**Words and Phrases : The expression 'Purchase ' as occurring in section 54F of the Income-tax Act, 1961**

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#### **FACTS**

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- The assessee, a Non-Resident Indian (NRI), filed her Income Tax Return for the Assessment Year 2019-

20. The assessee had sold 25 plots situated at Medipally, Uppal, Hyderabad, and 4 plots at Bhongir District, for a total consideration of Rs. 8,58,26,500/-. The assessee had entered into an agreement for purchase of a new residential flat on 06-06-2019, and had made the first payment towards the purchase consideration by cheque on 23-04-2019, which was followed by subsequent payments in instalments aggregating to Rs. 4,10,85,000/- till the date of filing of her return of income.

- The Assessing Officer observed that the property was ultimately registered in favour of the assessee on 07-12-2021 and the occupation certificate of the said property was issued on 30-07-2022. The Assessing Officer declined the assessee's claim for deduction under Section 54F on two grounds, viz. (i) the assessee had not purchased the new residential house within two years from the date of transfer of the original asset; and (ii) the assessee owned more than one residential house, i.e. nine independent residential properties other than the new residential house on the date of transfer of the original asset.
- The Commissioner (Appeals) allowed the assessee's claim for deduction under Section 54F and directed the Assessing Officer to determine the cost of acquisition of the Bhongir land @ Rs. 75,000/- per acre.
- On second appeal, the Tribunal set aside the matter to the file of the Assessing Officer with specific directions, viz. (i) to verify as to whether or not the assessee owned more than one residential house at the time of claiming deduction under Section 54F; and (ii) that as the assessee who had paid more than 80 per cent of the payment to the builder, had paid the balance amount of the consideration of more than Rs. 1 crore to the said builder beyond the time prescribed under the Act, therefore, the Assessing Officer was directed to verify as to whether the assessee satisfied the statutory requirement of having purchased the new residential house within the four corners of Section 54F, specifically in the backdrop of the fact that the registration of the sale deed of the said new residential property was executed on 01.12.2021.
- On remand, the Assessing Officer observed that the assessee had failed to invest towards the purchase of new house property within the prescribed time period of two years from the date of transfer of the original asset i.e. 25 properties and 4 plots at Bhongir District, Telangana, therefore, it was, *inter alia*, on the said count also, disentitled from raising the claim of deduction under Section 54F.
- On appeal, the Commissioner (Appeals) observed that the assessee had invested the entire sale consideration received on sale of 25 plots in new residential property within the stipulated time period, though the legal formalities of getting the said property registered in her name did not take place within the time period stipulated under Section 54F, therefore, her claim for deduction under Section 54F was well in order.
- On appeal to the Tribunal:

## **HELD**

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- The issue in hand revolves around the adjudication of the term 'purchase' as used in sub-section (2) of section 54F. Once it is proved that the assessee had within the prescribed period invested towards purchase of the new residential property, then, despite that the legal title in the said property was not passed or transferred to her within a period of two years from the date of sale of the old property, it would not disentitle her from claiming deduction under section 54F. The word 'purchase' as used in sub-section (2) of section 54F is not restricted or confined to a registered sale deed or even to possession, but has a wider connotation. The provisions of section 54F, being an analogous section, calls for a more liberal interpretation and application, as the intent of the section was to encourage investment in residential house by an individual or a Hindu Undivided Family out of the sale proceeds earned. A similar view had been taken by the ITAT, Hyderabad in the case of Pradeep Kumar Chowdhry v. Deputy Commissioner of Income-tax [2015] 55 taxmann.com 81/69 SOT 36 (Hyderabad - Trib.) and in the case of Narsimha Raju Rudra Raju v. Asstt. CIT [2013] 35 taxmann.com 90/143 ITD 586 (Hyderabad - Trib). [Para 18]
- Apart from that, the High Court of Delhi in the case of CIT v. Kuldeep Singh [2014] 49 taxmann.com 167/226 Taxman 133 (Delhi), has held that the word "purchase" used in sub-section (2) of Section 54 is not restricted or confined to the registered sale deed or even possession but has a wider connotation. It was observed that the basic purpose behind Section 54 is to ensure that the assessee is not taxed on the capital gain, if he replaces his house with another house and spends money earned on the capital gains within the stipulated period.[Para 19]

- Thus, in the backdrop of the aforesaid judicial pronouncements, there is no infirmity in the well-reasoned view taken by the Commissioner (Appeals), who has rightly concluded that the assessee's claim for deduction under section 54F was in order. [Para 20]
- Before parting, it is observed that as per section 54F(1)(d), where the investment made by the assessee in the new residential house within the prescribed period contemplated under section 54F(1) is less than the net consideration received by her on the sale of the original asset, then, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new residential house (i.e. the investment made within the prescribed time period) bears to the net consideration, shall not be charged under section 45. Thus, the view is taken that as the assessee had though sold the capital assets, viz. 25 plots situated at Medipally, Uppal, Hyderabad and 4 plots at Bhongir District for a total consideration of Rs. 8.58 crores, but had made an investment of a lesser amount in the new residential house, the Assessing Officer is directed to allow his claim of exemption under section 54F in the same proportion as the cost of the new residential house (i.e investment made within the prescribed period) bears to the net sale consideration of the properties sold by him. [Para 21]
- Resultantly, the appeal filed by the revenue is dismissed. [Para 22]

## CASE REVIEW

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*Narasimha Raju Rudra Raju v. Asstt. CIT* [2013] 35 taxmann.com 90/143 ITD 586 (Hyderabad - Trib.), *Pradeep Kumar Chowdhry v. Dy. CIT* [2015] 55 taxmann.com 81/69 SOT 36 (Hyderabad - Trib.), *CIT v. T.N. Aravinda Reddy* [1979] 2 Taxman 541/120 ITR 46 (SC) and *CIT v. Kuldeep Singh* [2014] 49 taxmann.com 167/226 Taxman 133 (Delhi) [Para 20] *Followed*

## CASES REFERRED TO

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*Dy. CIT (International Taxation) v. Smt. Syama Reddy Malireddy* [IT Appeal No. 325 (Hyd) of 2022, dated 20-3-2023] (para 2), *Narasimha Raju Rudra Raju v. Asstt. CIT* [2013] 35 taxmann.com 90/143 ITD 586 (Hyderabad - Trib.) (para 18), *Pradeep Kumar Chowdhry v. Dy. CIT* [2015] 55 taxmann.com 81/69 SOT 36 (Hyderabad - Trib.) (para 18), *CIT v. T.N. Aravinda Reddy* [1979] 2 Taxman 541/120 ITR 46 (SC) (para 18) and *CIT v. Kuldeep Singh* [2014] 49 taxmann.com 167/226 Taxman 133 (Delhi) (para 19).

**K.C. Devdas, C.A. for the Appellant. B. Bala Krishna, CIT-DR for the Respondent.**

## ORDER

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**Ravish Sood, Judicial Member.** - The present appeal filed by the Revenue is directed against the order passed by the Commissioner of Income-Tax (Appeals) - 10, Hyderabad, dated 19.12.2024, which in turn arises from the order passed by the Assessing Officer under Section 143(3) r.w.s. 144C(3) of the Income Tax Act, 1961 (for short, "Act"), dated 29.02.2024 for A.Y. 2019-20.

2. On the matter having been set aside by the Tribunal *vide* its order passed in *Dy. CIT (International Taxation) v. Smt. Syama Reddy Malireddy* [IT Appeal No. 325 (Hyd) of 2022, dated 20-3-2023], the Revenue has assailed the impugned order passed by the CIT (Appeals), which in turn arises from the order passed by the A.O under Section 143(3) r.w.s. 144C(3) of the Act, dated 29.02.2024 on the following grounds of appeal before us:

- "1. The Ld. CIT(Appeals) erred both in law and on facts of the case in granting exemption u/s.54F of the Income Tax Act, 1961.
2. On the facts and in the circumstances of the case, and in law, whether the CIT(Appeals) is justified in granting exemption u/s.54F of the Income Tax Act, 1961 without appreciating the fact that the new residential property was purchased and got registered on 07.12.2021 i.e beyond the period of 2 years as stipulated u/s.54F of the Act.
3. On the facts and in the circumstances of the case, and in law, whether the CIT(Appeals) is justified in granting exemption u/s.54F of the Income Tax Act, 1961 holding that the entire sale consideration received on sale of plots was reinvested in a residential property within the stipulated time even though the legal formalities of getting the property in assessee's name did not take place

within the time stipulated u/s.54F of the Act, or the extension provided by the Taxation & Other Laws (Relaxation and Amendment of certain provisions) Act, 2020.

4. On the facts and in the circumstances of the case, and in law, whether the CIT(Appeals) is justified in granting exemption u/s.54F of the Income Tax Act, 1961 without appreciating that the purchase of property is not complete without actual transfer of ownership by registration as laid down by Hon'ble Supreme Court in the case of *Sanjay Sharma v. Kotak Mahendra Bank Ltd* in SLP(C) No.330/2017
5. Any other ground of appeal that may be raised with the prior approval of the Hon'ble ITAT during the appellate proceedings."

3. Succinctly stated, the assessee, who is a Non-Resident Individual (NRI), had filed her Return of Income for A.Y. 2019-20 on 22.07.2019, declaring an income of Rs. 5,25,81,858/-. Subsequently, the case of the assessee was selected for scrutiny assessment under Section 143(2) of the Act.

4. The A.O. *vide* his original order of assessment passed under Section 143(3) r.w Section 144C(3) of the Act, dated 30.11.2021, redetermined the "Long-Term Capital Gains" ("LTCG") disclosed by the assessee on sale of 25 plots situated at Medipally, Uppal, Hyderabad, and 4 plots at Bhongir District, at Rs. 4,01,68,370/-, by an amount of Rs. 7,58,13,772/-. Apart from that, the A.O. declined the assessee's claim for deduction under Section 54 of the Act on two grounds, *viz.* (i) the assessee had not purchased the new residential house within two years from the date of transfer of the original asset; and (ii) the assessee owned more than one residential house, i.e nine independent residential properties other than the new residential house on the date of transfer of the original asset. Accordingly, the A.O. *vide* his order passed under Section 143(3) r.w.s. 144C(3) of the Act, dated 30.11.2021, determined the income of the assessee at Rs. 10,75,12,283/-.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A), Hyderabad, who *vide* his order dated 12.05.2022, allowed the assessee's claim for deduction under Section 54F of the Act and directed the A.O. to determine the cost of acquisition of the Bhongir land @ Rs. 75,000/- per acre.

6. The Revenue, being aggrieved with the order of CIT(A)-10, Hyderabad, carried the matter in appeal before the Tribunal (first round of litigation).

7. The Tribunal *vide* its order passed in *Smt. Syama Reddy Malireddy (supra)*, set aside the matter to the file of the A.O. with specific directions, *viz.* (i) to verify as to whether or not the assessee owned more than one residential house at the time of claiming deduction under Section 54F of the Act; and (ii) based on the examination of the SRO certificate, GST and Municipal Tax receipts to verify as to for what purpose the subject properties were approved by the municipal authorities; and (iii) that as the assessee who had paid more than 80% of the payment to the builder, had paid the balance amount of the consideration of more than Rs. 1 crore to the said builder beyond the time prescribed under the Act, therefore, the A.O. was directed to verify as to whether the assessee satisfied the statutory requirement of having purchased the new residential house within the four corners of Section 54F of the Act, specifically in the backdrop of the fact that the registration of the sale deed of the said new residential property was executed on 01.12.2021.

8. Thereafter, the A.O. *vide* his order passed under Section 143(3) r.w Section 144C(3) of the Act, dated 29.09.2024, *i.e.*, on the matter having been set aside by the Tribunal, after necessary deliberations and perusal of the documents, observed that except for one property, *i.e.*, the property situated at Ghatkeswar, Uppal, Medipally, Hyderabad, the remaining eight properties (out of nine properties) were found to be commercial properties. However, the A.O. observed that, though the assessee regarding the property at Ghatkeswar, Uppal (7-12, Medipally, Narapally, Ghatkeswar Mandal, Hyderabad), had submitted the lease deed for the ground floor given to M/s. Sainath Agencies, purchase deed dated 16.03.1995, property tax receipts etc., but, based on the said documents it could not be confirmed whether the whole property was commercial, because the lease deed was only for the ground floor, and there was no evidence whether the property had only a ground floor. Accordingly, the A.O. observed that the assessee in the absence of supporting documents, *viz.* electricity bills, photographs of the subject property/building, etc. had failed to prove that the property at Ghatkeswar (*supra*) was commercial in nature. As such, the A.O. observed that the assessee, as on the date of transfer of the properties during the year under consideration, was the owner of more than one residential property.

9. Further, the A.O. observed that the assessee had entered into an "agreement for purchase" of the new residential property, *i.e.*, apartment at Raidurg, Panmaktha Village, Gachibowli, Serilingampally Mandal, R.R. District with M/s. DSR Builders & Developers, dated 06.06.2019. The A.O. observed that the assessee had

made the first payment to M/s. *DSR Builders & Developers (supra)* towards the purchase consideration of the new residential apartment by cheque on 23.04.2019, which was followed by subsequent payments in instalments aggregating to Rs. 4,10,85,000/- till the date of filing of her return of income for the subject year on 22.07.2019. The A.O. observed that M/s. DSR Builders & Developers had handed over the possession of the subject property to the assessee on 24.08.2020 for taking up the interior works, and by that date the assessee had paid the full value of consideration. The A.O. further observed that the property was ultimately registered in favour of the assessee on 07.12.2021 and the occupation certificate of the said property was issued on 30.07.2022.

10. The A.O. based on the aforesaid facts observed that the assessee had invested an amount of Rs. 5,45,00,000/- in the new residential house property, i.e., Flat No. 1102, consisting of 6666 Sq. ft in Survey No. 66/2 situated at Raidurg, Panmaktha Village, Serilingampally Mandal, R.R. District, vide Document No. 21093/ 2021, dated 07.12.2021, which was beyond the prescribed time limit of two years within which she was statutorily required to invest in the new residential house to claim exemption under Section 54F of the Act. It was observed by him that the assessee, who had claimed to have made payments to the tune of Rs. 4,10,85,000/- towards purchase of the new residential property before the filing of the return of income for the subject year, i.e., A.Y. 2019-20, had, based on her aforesaid investment raised the claim for exemption under Section 54F of the Act. It was further observed by him that though the assessee had filed her return of income for the A.Y. 2019-20 on 25.06.2019, but had received the possession letter from the builder on 24.08.2020. The A.O. further observed that the assessee had not submitted the occupancy certificate for the new residential house property issued by the GHMC. Accordingly, the A.O. based on his firm conviction that the assessee had failed to invest towards the purchase of new house property situated in 11th floor of the Tower "The First" in Survey No.66/2 at Raidurg, Panamaktha Village, Serlingampalli Mandal, Ranga Reddy District, Telangana, within the prescribed time period of two years from the date of transfer of the original asset i.e. 25 properties and 4 plots at Bhongir District, therefore, it was, *inter alia*, on the said count also, disentitled from raising the claim of deduction under Section 54F of the Act.

11. Aggrieved, the assessee carried the matter in appeal before the CIT(A) (second round of litigation)

12. The CIT(A), after necessary deliberations, concluded that perusal of the documents that were filed by the assessee with respect to the property situated at Ghatkeswar, Uppal, Medipally, substantiated her claim that the said property was commercial. Accordingly, the CIT(A) vacated the view taken by the A.O. (in the second round of assessment) that the assessee had failed to substantiate that the property owned by the assessee at Ghatkeswar (*supra*) was a commercial property.

13. Apropos the entitlement of the assessee for claim of deduction under Section 54F of the Act, based on the fact that she had entered into an "agreement for purchase" with M/s. *DSR Builders & Developers (supra)* for purchase of a new residential flat/apartment on 06.06.2019, and had made a payment of Rs. 4,10,85,000/- before filing of her return of income for the subject year i.e. A.Y. 2019-20, while for the balance consideration was thereafter paid to the builder, who had issued a possession certificate on 28.04.2020, the CIT(Appeals) observed that the assessee had claimed that the registration of the new residential property could not be completed due to the international travel restrictions in place due to COVID outbreak. The CIT(A) observed that finally the new residential property, i.e., the apartment was registered in the name of the assessee on 07.12.2021, when she had travelled to India to complete the registration formalities. Also, it was observed by him that the builder's occupancy certificate was issued to the assessee on 13.07.2022, and the same was submitted in the course of the assessment proceedings to the A.O.

14. The CIT(A), based on the aforesaid facts, concluded that as the assessee had invested the entire sale consideration received on sale of 25 plots in new residential property within the stipulated time period, though the legal formalities of getting the said property registered in her name did not take place within the time period stipulated under Section 54F of the Act, therefore, her claim for deduction under Section 54F of the Act was well in order. The CIT(A), based on his aforesaid observations, concluded that the assessee had rightly raised a claim for deduction under Section 54F of the Act. For the sake of clarity, the observations of the CIT(A) are culled out as under:

"Now coming to the claim of the deduction u/s 54F of the Income Tax Act, 1961. The appellant had entered into an Agreement for purchase of an apartment at Raidurg, Gachibowli with the first payment made by Cheque on 23.04.2019 and enter into an Agreement of sale from the builder on 06.06.2019 and paid further amounts in instalments aggregating to Rs.4,10,85,000/- till the date of filing of the return 22.07.2019. The due date of the builder on 24.08.2020 gave the possession of the flat to the appellant to

take-up the interior works as the appellant had paid the full value of consideration. The property was ultimately registered on 07.12.2021 and the Occupancy Certificate of building was issued on 30.07.2022.

The appellant sold the immovable Asset being plots located in Medipally and Bhongir in the FY 2018-19 and the capital gain accrued on the sale were to be invested in purchase of residential property within two years to claim the deduction u/s 54F of the Income tax Act, 1961. There is no denial of the fact that the assessee had entered into an agreement for purchase of residential property on 06.06.2019 and had paid Rs.4,10,85,000/- before the filing of ROI for the AY 2019-20. Further the balance consideration was paid and the builder issued possession certificate on 24.08.2020. It was the case of the assessee that the registration of the property could not be completed due to the international travel restrictions in place due the COVID out-break. Ultimately the Flat was registered in the name of the appellant on 07.12.2021 when the appellant travelled to India to complete the registration formalities. Further the building Occupancy Certificate was issued on 30.07.2022 and was submitted in the course of the assessment proceedings to the AO.

Thus the facts of the case demonstrate that the entire sale consideration received on the sale of plots was reinvested in a residential property within the stipulated time even though the legal formalities of getting the property in the appellant's name did not take place within the time stipulated u/s 54F of the Income Tax Act.

The appellant placed reliance on the various legal precedence where in the it was held that Sec 54F being analogous section calls for a more liberal interpretation and application as the intent of the section was to encourage an investment in residential house by an individual or a Hindu Undivided family out of the sale proceeds earned. This view has been held consistently by various appellate authorities.

The Hon'ble Apex court as early as in 1979 while affirming the decision of Andhra Pradesh High Court in the case of *CIT v. Aravindha Reddy TN* (1979) 12 ITR 46 SC held as under:

"Undoubtedly, each release, in these circumstances, is a transfer of the releasor's share for consideration to the release. In plain English, the transferee purchases the share of each of his brothers. It is for a price of Rs. 30,000 each. Had this been taken from non-fraternal owners of shares or from one stranger-owner, plain-spoken people would have called it a purchase. Why, then, should legalese be allowed to play this linguistic distortion?

There is no reason to divorce the ordinary meaning of the word "purchase" as buying for a price or equivalent of price by payment in kind or adjustment towards an old debt or for other monetary consideration from its legal meaning in section 54(1) of the Income Tax Act

If you sell your house and make a profit, pay Caesar what is due to him. But if you buy or build another subject to the conditions of section 54(1) you are exempt.

Further reliance is placed on the decision of Hon'ble jurisdictional ITAT in the case of *Pradeep Kumar Chowdhry v. Deputy Commissioner of Income-tax, Circle- 1* (1), Hyderabad [2015] 55 taxmann.com 81/69 SOT 36 (Hyderabad - Trib.) (Hyderabad Trib.) adjudicating based on reliance placed on the earlier decision of *Narasimha Raju Rudra Raju v. Asst. CIT* (2013) 143 ITD 586/35 taxmann.com 90 (Hyd.) wherein the co-ordinate Bench has decided as follows:

- Provision contained under section 54F being a beneficial provision has to be construed liberally in various judicial precedents it has been held that the condition precedent for claiming benefit under section 54P is only that the capital gain realized from the sale of capital asset should be parted by the assessee and invested either in purchasing a residential house or in constructing a residential house. If the assessee has invested the money in construction of residential house, merely because the construction was not complete in all respects and it was not in a fit condition to be occupied within the period stipulated, that would not disentitle the assessee from claiming the benefit under section 54F.
- Once the assessee demonstrates that the consideration received on transfer has been invested either in purchasing a residential house or in constructing a residential house, even though the transactions are not complete in all respects and as required under the law, that would not disentitle the assessee from availing benefit under section 54F. Ruen investment made in purchasing a plot of land for the purpose of construction of a residential house has

been held to be an investment satisfying the conditions of section 54P. Though there cannot be any dispute with regard to the above said proposition of law, the assessee is required to prove the actual date of investment and the amount invested towards purchase/construction of the residential house with supporting evidence

In view of the factual matrix of the case and respectfully following the decision of Hon'ble Apex Court and the binding decisions of the jurisdictional ITAT, as the facts of the case are identical with the case referred above and the facts that it was demonstrated that the appellant has reinvested the total sale consideration received in the purchase of a residential house' well before the filing of Return of Income. The intent was to clearly acquire a title in the residential property and it was acquired, beyond the stipulated time-limit, but the sale consideration was utilized only for the purpose of the acquisition of Residential House. It was proved beyond doubt that the appellant was not having more than one residential property at the time of claiming the deduction u/s 54F of the Income tax Act, 1961 based on facts and documents furnished by the appellant. Hence, the appellant's claim deduction u/s 54F of Income Tax Act, 1961 is allowed. Accordingly the ground no 2 to 5 are allowed.

7. In the result, the appeal is allowed."

15. The revenue, being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before us.

16. We have given thoughtful consideration to the issue in hand in the backdrop of the contentions advanced by the learned Authorized Representatives of both parties.

17. The controversy involved in the present appeal boils down to the solitary issue, i.e. whether or not the assessee, though having made payments aggregating to Rs. 4,10,85,000/- to M/s. DSR Builders & Developers (*supra*) for purchase of the new residential house, viz. flat/apartment bearing No. 1102, 11th floor of the Tower, "The First" in Survey No. 66/2, at Raidurg, Panamaktha, Serilingampalli Mandal, Ranga Reddy District, Telangana, i.e. upto the date of filing of her return of income for the subject year on 22.07.2019, was entitled for claim of deduction under Section 54F of the Act, though the possession letter was issued by the builder/developer on 24.08.2020, while for the registered sale deed of the said new residential property was executed on 07.12.2021, and the occupancy certificate issued on 30.07.2021.

18. We find that the issue in hand revolves around the adjudication of the term "purchase" as used in sub-section (2) of Section 54F of the Act. In our considered view, once it is proved that the assessee had within the prescribed period invested towards purchase of the new residential property, then, despite that the legal title in the said property was not passed or transferred to her within a period of two years from the date of sale of the old property, it would not disentitle her from claiming deduction under Section 54F of the Act. We say so, for the reason that the word 'purchase' as used in sub-section (2) of Section 54F is not restricted or confined to a registered sale deed or even to possession, but has a wider connotation. We concur with the Ld. CIT(Appeals), who, after drawing support from the judgment of the Hon'ble Supreme Court in the case of *CIT v. T.N. Aravinda Reddy* [1979] 2 Taxman 541/120 ITR 46 (SC), had observed that the provisions of Section 54F, being an analogous section, calls for a more liberal interpretation and application, as the intent of the section was to encourage investment in residential house by an individual or a Hindu Undivided Family out of the sale proceeds earned. Also, we find that a similar view had been taken by the ITAT, Hyderabad in the case of *Pradeep Kumar Chowdhry v. Deputy Commissioner of Income-tax* [2015] 55 taxmann.com 81/69 SOT 36 (Hyderabad - Trib.) and in the case of *Narsimha Raju Rudra Raju v. Asstt. CIT* [2013] 35 taxmann.com 90/143 ITD 586 (Hyderabad - Trib.).

19. Apart from that, we find that Hon'ble High Court of Delhi in the case of *CIT v. Kuldeep Singh* [2014] 49 taxmann.com 167/226 Taxman 133 (Delhi), has held that the word "purchase" used in sub-section (2) of Section 54 is not restricted or confined to the registered sale deed or even possession but has a wider connotation. It was observed that the basic purpose behind Section 54 is to ensure that the assessee is not taxed on the capital gain, if he replaces his house with another house and spends money earned on the capital gains within the stipulated period. For the sake of clarity, we deem it apposite to cull out the relevant observations of the Hon'ble High Court, as under:

"3. The Assessing Officer referred to the copy of the flat buyers agreement dated 9<sup>th</sup> February, 2006 between the assessee and the builder and observed that the ownership in the new property would be conferred on the date of issuance of occupation certificate. Further, the expected date of completion was 36 months from the date of the agreement dated 9<sup>th</sup> February, 2006 i.e. 8<sup>th</sup> February, 2009. He held that

the assessee was not entitled to benefit of Section 54 as he had not purchased the new property within a period of one year before the sale of first property on 3rd June, 2005 or within two years from the date on which the transfer took place. The assessee had not constructed residential house within three years from 3rd June, 2005. Assessing Officer observed that legal ownership of the property never vested in the assessee within the aforesaid period and therefore, the purchase was not completed within two years which was the period stipulated and specified in Section 54 of the Act. He, accordingly, computed the long term capital gain, after granting benefit of indexation on cost of acquisition and cost of improvement, at Rs.45,36,273/-. While examining the question of capital gains, the Assessing Officer also disallowed the claim of the assessee to the extent of Rs.7,50,000/- as cost incurred for transfer.

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6. This brings us to the other question whether the assessee had "purchased" the second property and, therefore, payment made of Rs.37,86,273/- was entitled to exemption under Section 54 of the Act. Section 54 of the Act as applicable to assessment year 2006-07 reads as under:-

"54. Profit on sale of property used for residence.—

(1) Subject to the provisions of sub-section (2), where, in the case of an assessee being an individual or a Hindu undivided family the capital gain arises from the transfer of a long-term capital asset being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head "Income from house property"

(hereafter in this section referred to as the original asset), and the assessee has within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, a residential house, then instead of the capital gain being charged to income tax as income of the previous year in which the transfer took place, it shall be dealt with in accordance with the following provisions of this section, that is to say,--

(i) if the amount of the capital gain is greater than the cost of the residential house so purchased or constructed (hereafter in this section referred to as the new asset), the difference between the amount of the capital gain and the cost of the new asset shall be charged under section 45 as the income of the previous year; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil; or

(ii) if the amount of the capital gain is equal to or less than the cost of the new asset, the capital gain shall not be charged under section 45; and for the purpose of computing in respect of the new asset any capital gain arising from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be reduced by the amount of the capital gain.

Explanation.--Omitted by FA 87 wef 1-4-88.

(2) The amount of the capital gain which is not appropriated by the assessee towards the purchase of the new assets made within one year before the date on which the transfer of the original asset took place, or which is not utilised by him for the purchase or construction of the new asset before the date of furnishing the return of income under section 139, shall be deposited by him before furnishing such return such deposit being made in any case not later than the due date applicable in the case of the assessee for furnishing the return of income under sub-section (1) of section 139 in an account in any such bank or institution as may be specified in, and utilised in accordance with, any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and such return shall be accompanied by proof of such deposit ; and, for the purposes of sub-section (1), the amount, if any, already utilised by the assessee for the purchase or construction of the new asset together with the amount so deposited shall be deemed to be the cost of the new asset:

**Provided** that if the amount deposited under this sub-section is not utilised wholly or partly for the purchase or construction of the new asset within the period specified in sub-section (1), then,--

- (i) the amount not so utilised shall be charged under section 45 as the income of the previous year in which the period of three years from the date of the transfer of the original asset expires; and

- (ii) the assessee shall be entitled to withdraw such amount in accordance with the scheme aforesaid.

Explanation.--Omitted by Finance Act, 1992, w.e.f. 1-4-1993."

7. It is accepted position, and it is not disputed by the Revenue that Rs.37,86,273/- had been invested by the assessee for purchase of the property at Gurgaon. However, legal title in the said property was not passed or transferred to the assessee within a period of two years from the date of sale of the first property on 3rd June, 2005. The second property it is apparent was still under construction though the builder had entered into and executed the flat buyers agreement with the assessee dated 9th February, 2006. The said agreement mentions the apartment number and gives specific detail of the property. The payments were linked to stage of construction and that amount of Rs.2,90,46,250/- was payable within 27 months of booking i.e. on or before 12th February, 2008 and the total cost of flat/apartment was Rs. 3,13,09,375/-. Thus, the consideration being paid by the respondent assessee was nearly 9 times income by way of capital gains which was earned by the assessee.

8. The word "purchase" can be given both restrictive and wider meaning. A restrictive meaning would mean transactions by which legal title is finally transferred, like execution of the sale deed or any other document of title. "Purchase" can also refer to payment of consideration or part consideration along with transfer of possession under Section 53A of the Transfer of Property Act, 1882. Supreme Court way back in 1979 in *CIT Andhra Pradesh v. T.N. Aravinda Reddy* (1979) 4 SCC 721, however, gave it a wider meaning and it was held that the payment made for execution of release deed by the brother thereby joint ownership became separate ownership for price paid would be covered by the word „purchase". It was observed that the word „purchase" used in Section 54 of the Act should be interpreted pragmatically in a practical manner and legalism shall not be allowed to play and create confusion or linguistic distortion. The argument that "purchase" primarily meant acquisition for money paid and not adjustment, was rejected observing that it need not be restricted to conveyance of land for a price consisting wholly or partly of money's worth. The word "purchase", it was observed was of a plural semantic shade and would include buying for a price or equivalent of price by payment of kind or adjustment of old debt or other monetary considerations. It was observed that if you sell a house and make profit, pay Caesar (State) but if you buy a house or build another and thereby satisfy the conditions of Section 54, you were exempt. The purpose was plain; the symmetry was simple; the language was plain.

9. Recently Supreme Court in Civil Appeal Nos. 5899-5900/2014 titled *Sh. Sanjeev Lal Etc.Etc. v. CIT, Chandigarh & Anr.*, decided on 01/07/2014, 2014 (8) SCALE 432 again examined Section 54 in a case where the assessee had entered into an agreement to sell a house to a third party on 27th December, 2002 and had received Rs.15 lacs by way of earnest money and subsequently received the balance sale consideration of Rs.1.17 crores (total being Rs.1.32 crores) when the sale deed was executed on 24<sup>th</sup> September, 2004. In the meanwhile, the assessee had purchased another house on 30th April, 2003. Benefit under Section 54 was denied by the High Court observing that the new house had been purchased prior to execution of the sale and not within one year prior to sale of original asset i.e. new house has been purchased on 30th April, 2003 whereas the earlier asset was sold only on 24th September, 2004. The Supreme Court allowing the appeal noticed that the agreement to sell was executed on 27<sup>th</sup> December, 2002 but the sale deed could not be executed because of inter-se litigation between the legal heirs, as one of them had challenged the will under which the assessee had inherited the property. The agreement to sell, it was held had given some rights to the vendor and reduced or extinguished rights of the assessee. This, it was observed was sufficient for the purpose of Section 2(47), which defines the term transfer in relation to a capital asset. In the light of the factual matrix, it was observed that the intention behind Section 54 was to give relief to a person who had transferred his residential house and had purchased another residential house within two years of transfer or had purchased a residential house one year before transfer. It was only the excess amount not used for making purchase or construction of the property within the stipulated period, which was taxable as long term capital gain while on the amount spent, relief should be granted. Principle of purposive interpretation should be applied to subserve the object and more particularly when one was concerned with exemption from payment of tax. The assessee, therefore, succeeded. The observations made in the said decision are also relevant on the question whether the payments made by the assessee to the person with whom he had entered into an earlier agreement to sell should be allowed to be set off as expenses incurred in relation to the sale deed which was executed.

10. More direct are the two decisions of Madhya Pradesh High Court in *Shashi Verma (Smt.) v. CIT* [1997] 224 ITR 106 and Calcutta High Court in *CIT v. Smt. Bharati C. Kothari* (2000) 244 ITR 352. In *Shashi Verma (supra)*, the assessee had invested the sale consideration for purchase of a flat from Delhi Development Authority and had paid part installments. Reversing the decision of the Tribunal and allowing the appeal of the assessee, the High Court observed that the Tribunal had adopted a pedantic approach without noticing the fact that the capital gain was Rs.31,980/- whereas the installments paid were Rs.71,256/-, i.e. much more than the amount of capital gain. Reference was made to Circular No. 471 dated 15<sup>th</sup> October, 1986 [1986] 162 ITR (Stat.) 41. It was observed that Section 54 of the Act says that assessee could have constructed the house and not that the construction should have necessarily been completed. Noticing that it was not easy to construct a house within the time limit of three years and under the Government schemes, construction takes years. When substantial investment was made in the construction and it should be deemed that sufficient steps had been taken, and it satisfied requirement of Section 54.

11. What has been stated in the judgment of the Madhya Pradesh High Court in 1997, in practical terms and in reality still holds good. This is a matter of common knowledge that flats or apartments being constructed by builders take time. The Government Housing Boards also take time and seldom adhere to the promised date. Similar view has been taken in *Bharati C. Kothari (supra)* wherein reference was made to the decision of Andhra Pradesh High Court in *CIT v. Shahzada Begum (Mrs.)* [1988] 173 ITR 397 and it was observed that assessee had entered into an agreement within two years for purchase of a flat which was under construction. Payment for the said flat was made within three years from the date of sale of the first property. No doubt the assessee was not constructing the new asset herself but she had purchased the flat. Reference was made to the decision of the Hon'ble Supreme Court in *CIT v. J.H. Gotla* [1985] 156 ITR 323 (SC), wherein it has been observed:

"Where the plain literal interpretation of a statutory provision produces a manifestly unjust result which could never have been intended by the Legislature, the court might modify the language used by the Legislature so as to achieve the intention of the Legislature and produce a rational construction. The task of interpretation of a statutory provision is an attempt to discover the intention of the Legislature from the language used. It is necessary to remember that language used is at best an imperfect instrument for the expression of human intention. It is well to remember the warning administered by Judge Learned Hand that one should not make a fortress out of the dictionary but remember that statutes always have some purpose or object to accomplish and sympathetic and imaginative discovery is the surest guide to their meaning."

12. Moreover, in *Bharati C. Kothari's Case (supra)* it was stated as under:-

"The purpose behind the exemption under section 54(1) is that if any assessee sells his residential house and purchases a new house against those sale considerations that capital gains tax arising out of the sale of the earlier house should not be taxed. Whether the assessee himself constructs the house or he gets it constructed by a contractor or a third party that does not make any difference. The basic requirement for the purpose of relief under section 54(1), is that the assessee should invest the sale proceeds in the construction of a residential house, which has been constructed for the assessee. Keeping in view the above observations and reasons given by the Tribunal, no case is made out for interference."

It was observed that the basic purpose behind Section 54 is to ensure that the assessee is not taxed on the capital gains, if he replaces his house with another house and spends money earned on the capital gains within the stipulated period.

13. The view we have taken gets support from sub-section (2) to Section 54. The aforesaid sub-section requires the assessee to deposit unspent amount not utilized by the assessee for purchase or construction of a new asset before the date of furnishing of return, in a specified account. It further states that the amount, if already utilized for purchase or construction of the new asset with the amount so deposited will be deemed to be cost of a new asset subject to the proviso. The word "purchase" is used in sub-section (2) and indicates that the said word is not restricted or confined to registered sale deed or even possession but has a wider connotation. The proviso supports the aforesaid interpretation and stipulates that the amount deposited but not utilized wholly or partly for purchase or construction of new asset within the specified period will be charged to tax under Section 45 in the previous year in which the period of three years from the date of transfer of original asset expired. The period of three years is

stipulated as this is the longer period specified in the sub-section (1) to Section 54. It is only the balance amount which is not utilized which is to be brought and charged to tax. The entire amount of sale consideration or the capital gains is not to be brought to tax, but the unspent amount/figure is taxed."

(emphasis supplied by us)

**20.** We, thus, in the backdrop of the aforesaid judicial pronouncements, principally finding no infirmity in the well-reasoned view taken by the CIT(A), who has rightly concluded that the assessee's claim for deduction under Section 54F of the Act was in order, uphold the same.

**21.** Before parting, we may herein observe that as per Section 54F(1)(d) of the Act, where the investment made by the assessee in the new residential house within the prescribed period contemplated under Section 54F(1) is less than the net consideration received by her on the sale of the original asset, then, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new residential house (i.e. the investment made within the prescribed time period) bears to the net consideration, shall not be charged under Section 45 of the Act. We, thus, are of the considered view that as the assessee had though sold the capital assets, viz. 25 plots situated at Medipally, Uppal, Hyderabad and 4 plots at Bhongir District for a total consideration of Rs. 8,58,26,500/- (as mentioned at Page 2 - Para 3 of the impugned assessment order), but had made an investment of a lesser amount in the new residential house, therefore, the A.O is directed to allow his claim of exemption under Section 54F in the same proportion as the cost of the new residential house (i.e investment made within the prescribed period) bears to the net sale consideration of the properties sold by him.

**22.** Resultantly, the appeal filed by the Revenue is dismissed, though in terms of our aforesaid observations. Order pronounced in the Open Court on 3<sup>rd</sup> September, 2025.

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\*Partly in favour of assessee.