

**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH, MUMBAI
BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER**

AND

SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER

ITA No. 1636/MUM/2025

Assessment Year:2013-14

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| Sadhana Annasabeh Sonwane 502/B, Sai Regency, Bhoir Nagar, Vidyalaya Marg, Mulund (E), Mumbai 400081 (PAN: AQSPS7089R) | vs | ITO Ward 29(3)(2), Mumbai Vashi Railway station, 3X7X+GQP, 3 rd & 4 th Floor, 6 th Tower, Complex, Vashi, Navi Mumbai 400703 |
| Appellant | | Respondent |

Present for:

Appellant by : Shri Sanjeev Brahme, CA

Respondent by : Shri. Layaqat Ali Aafaqui, Sr. DR

Date of Hearing : 29.07.2025

Date of Pronouncement : 13.10.2025

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of CIT(A), National Faceless Appeal Centre (NFAC), Delhi vide order no. ITBA/NFCA/S/250/2024-25/1072025693(1), dated 09.01.2025 passed against the assessment order by ITO-W-29(3)(2) u/s.143(3) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 29.03.2016 for AY 2013-14.

2. Grounds taken by the assessee are reproduced as under:

“(i) The CIT(A) of National Faceless Appeal Centre (NFAC) has erred in confirming the order of Assessing Officer.

“(ii) The CIT(A) National Faceless Appeal Centre (NFAC) has erred in upholding the decision of the Assessing Officer, thereby confirming the denial of the benefit under Section 54F.

(iii) The CIT(A) has erred in confirming the addition of Rs.64,36,629/- made by the Assessing Officer.

(iv) The CIT(A) has erred in creating demand of Rs. 18,04,130/-

(v) The Appellant craves leave to add, alter, amend, and modify aforesaid ground/s of Appeal at or any time before the hearing as they may be advised from time to time.”

3. The sole issue involved in the present appeal is in respect of disallowance of deduction claimed u/s. 54F by the assessee. The addition has been made of Rs. 64,36,629/- in the assessment completed u/s. 143(3). Fact of the matter is that assessee had sold a capital asset i.e. land in Nashik on 18.02.2013 for a consideration of Rs.70 lacs and claimed deduction u/s. 54F by making reinvestment of this consideration received by her in a residential property at Flat No. 2102 on 21st floor of Sai Radha Complex in Wing “F”, situated at L.B.S. Marg, Near Asian Paint, Bhandup (W), Mumbai 400078. The purchase value of the said flat was agreed at Rs. 76,65,000/-.

3.1. While disallowing the said claim of deduction, ld. AO held that assessee was required to complete the purchase by 17.02.2015 as section 54F(1) mandates that the investment is ought to be made within 2 years from the date of transfer of original asset in case of purchase of a residential house and within 3 years in case of construction of a residential house. For this Ld. AO referred to the registered agreement for the purchase of the flat executed between the assessee and the builder namely M/s. G.K. Realtors, executed on 21.06.2017. According to him, since assessee has made the purchase of residential house through this registered agreement on 21.06.2017, it is beyond the period of 2 years as mandated by section 54F(1). Accordingly, claim of deduction u/s. 54F is not available and he hence made the addition by disallowing the same. In first appeal, ld. CIT(A) confirmed the said disallowance. Aggrieved, assessee is in appeal before the Tribunal.

4. Before us, Id. Counsel for the assessee placed a paper book containing the 23 pages to substantiate the claim of deduction. He referred to the allotment letter dated 11.06.2012 issued by the builder M/s. G.K. Relators whereby the aforesaid flat was allotted to the assessee for the value of Rs. 76,65,000/- and the said allotment letter mentions that agreement of sale and other formalities will be taken up in due course. For the purpose of obtaining this allotment letter, assessee had made a part payment of Rs. 15 lacs by cheque no. 000014 on 05.06.2012 against which the builder had issued a receipt, duly acknowledging the part payment made by the assessee. For this payment of Rs.15 lacs, reference was made to the bank statement of Kotak Mahindra Bank where the assessee had her bank account, to demonstrate that the amount of Rs. 15 lacs had gone from her bank account by way of clearing of the said cheque on 26.06.2012. Assessee made another part payment of Rs. 55 lacs by cheque no. 000003 dated 29.07.2013 to the builder for which a receipt was issued dated 01.08.2013. In this respect also, reference was made to the bank pass book of Bank of Baroda from where the said amount of Rs. 55 lacs were paid and the cheque was cleared on 02.08.2013. Thus, assessee had paid an amount of Rs. 70 lacs to the builder against the booking of the flat in the year 2012-13.

5. Ld. Counsel further submitted that registry of purchase transaction took place in the year 2017 by way of the registered agreement dated 22.06.2017, as there were certain delays at the end of the builder in completing the construction within the stipulated time. According to him, assessee had invested the amount of consideration received on the sale of the land at Nashik in purchasing the flat at Bhandup (W), Mumbai. The delay in completion of construction and handing over of the possession within the stipulated period is

attributable to the builder. He further submitted that the term “purchased” or “constructed” used in section 54F may not necessarily mean that new asset must be transferred in the name of the assessee. It is sufficient, if the amount has been invested by the assessee in a house property against the booking of a flat in a housing project which is proposed for construction.

5.1. It is contented that section 54F is a beneficial provision for promoting construction of residential house and hence is to be construed liberally to achieve the object of the said section. The said section does not prescribe the completion of construction or purchase of residential house, but the thrust is on making of investment of the net consideration received on sale of original asset in the construction/purchase of the new residential house. What is important is that assessee has parted with the sale consideration of original asset by making an investment either in purchasing or constructing a residential house. According to him, conditions prescribed u/s. 54F had been duly complied with and the transaction under taken by the assessee is substantiated by corroborative documentary evidence placed on record. Accordingly, the claim of deduction u/s. 54F is ought to be allowed.

6. Per contra, ld. Sr. DR asserted that the deduction claimed has been rightfully disallowed since it is not in consonance with the provisions of Section 54F, as evidently demonstrated by registered agreement which is dated 21.06.2017 falling beyond the period of 2 years from the date of transfer of original asset, for the purchase of flat claimed by the assessee. He has placed on record a written submission along with judicial precedents relied upon which is taken on record and considered.

7. We have heard both the parties and perused the material available on record. We have also given our thoughtful consideration to the submissions made before us, supported by corroborative documentary evidences forming part of the paper book. It is an undisputed fact that assessee has made investments by making payment to the builder G.K. Relators through account pay cheques for which the funds moved from her bank accounts and receipts issued by the builder, acknowledging the receipt of the said payments. These payments are within the prescribed limitation of 2 years for the purchase of a residential house as mandated by Section 54F(1). Allotment letter is issued by the builder year earmarking Flat No. 2102 on 21st floor of the proposed building for which eventually a registered agreement was executed and the possession was handed over to the assessee after obtaining occupancy certificate. Thus assessee had in fact acquired a house property which is not in dispute. Ld. AO has based his decision to disallow on the registered agreement which falls beyond the period of 2 years for making an investment. Assessee claims that she has made the required investment of the sale consideration received by her in a residential house for which allotment letter issued by the builder earmarking the flat, is on record.

7.1. On this factual matrix, what we have to see is whether the assessee has acquired a right to a specific flat in such a building which is being constructed by the builder and whether she has made investment of the consideration received on transfer of original asset within the prescribed period so as to entitle her to obtain possession of the new flat proposed to be constructed. Thus, the material fact in this connection is the right over the flat and the investment made therein by the assessee.

8. We find that assessee has met both the conditions of acquiring a right in the flat by way of allotment letter, since Flat No. 2102 on 21st floor in the proposed building is reserved for her by way of exclusion to the rest of the world. For the investments made by her, the builder has issued receipts and the funds have moved out to the builder from her savings account which is not in dispute by the authorities below. Therefore, considering the factual matrix and the provisions of section 54F, all of which discussed above in detail, we allow the claim of the assessee u/s. 54F and delete the disallowance made by the ld. AO. Accordingly, grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 13.10.2025.

Sd/-
[Amit Shukla]
Judicial Member

Sd/-
[Girish Agrawal]
Accountant Member

Dated: 13.10.2025.

Divya R. Nandgaonkar
Stenographer

Copy to:

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai