

आयकर अपीलीय अधिकरण "D" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "D" BENCH, MUMBAI

BEFORE SHRI B.R.BASKARAN, ACCOUNTANT MEMBER
AND SHRI RAVISH SOOD, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No.6814/Mum/2016

(निर्धारण वर्ष / Assessment Year : 2013-14)

Rajendra Pal Verma 606, Kingston Tower, Parel, Tank Road, Parel, Mumbai 400012	बनाम/ vs.	ACIT 35(2) Mumbai
स्थायी लेखा सं./PAN:AAAPV1934E		
(अपीलार्थी /Appellant)		(प्रत्यर्थी / Respondent)
Assessee by:		Shri. Dharmesh Shah
Revenue by :		Shri. D.G. Pansari

सुनवाई की तारीख /Date of Hearing : 06.03.2019

घोषणा की तारीख /Date of Pronouncement : 12.03.2019

आदेश / ORDER

PER RAVISH SOOD, JUDICIAL MEMBER :

The present appeal filed by the assessee is directed against the order passed by the CIT(A)-46, Mumbai, dated 07.10.2016, which in turn arises from the order passed by the A.O u/s. 144 of the Income Tax Act 1961 (for short 'I.T Act'), dated 12.01.2016 for A.Y 2013-14. The assessee assailing the order of the CIT(A) has raised before us the following grounds of appeal :

1) *On the facts and in the circumstances of the case and in law, the CIT(A) erred in upholding impugned order passed u/s 144 of the Act which is bad in law and void ab initio as the same is passed without issuing a show cause notice u/s 144, without giving adequate opportunity for hearing and explaining the return of income. Further, the observations made by the Assessing Officer (AO) are factually incorrect.*

2) *On the facts and in the circumstances of the case and in law, the CIT(A) erred in partly confirming the action of the AO in not granting exemption u/s 54 of the Act to the extent of Rs.60,79,680 as against claim of Rs. 1,44,51,461 (thereby allowing partly at Rs.83,71,781) against sale of residential flat situated at Sewree, Mumbai claimed by investing the realized long term capital gains in a new residential flat at Parel, Mumbai within 2 years and/or constructed within 3 years from the date of sale.*

3) *On the facts and circumstances of the case and in law, the learned CIT(A) legally erred in confirming the consequential chargeability of interest u/s 234B.*

4) *On the facts and circumstances of the case and in law, the CIT(A) erred in confirming the initiation of penalty proceedings u/s 271(l)(c) of the Act.*

5) *The appellant craves leave of your Honours to add to, alter, amend and/or delete all or any of the grounds on or before the date of hearing and further prays that additional income so assessed and expenditure disallowed be deleted and allowed.*

2. Briefly stated, the assessee had e-filed his return of income for A.Y 2013-14 on 31.07.2013, declaring total income of Rs. 61,40,881/-. Thereafter, the assessee filed a revised return of income on 15.11.2014, declaring total income of Rs. 59,30,550/-. Subsequently, the case of the assessee was selected for scrutiny assessment u/s. 143(2) of the I.T Act.

3. During the course of the assessment proceedings it was observed by the A.O that the assessee had during the year under consideration sold a residential flat at Rushab Tower, Mumbai (hereinafter referred to as "old residential flat") for a consideration of Rs. 2.09 crore. It was observed by the AO that the entire "Long term capital gain" (for short 'LTCG') on sale of the said 'old residential flat' was claimed by the assessee as exempt u/s. 54 of the IT Act. As per the details made available on record, it was noticed by the A.O that the aforesaid claim of exemption u/s. 54 was raised by the assessee

on the ground that he had purchased a new residential flat at Crescent Bay, L&T Parel project, Mumbai (hereinafter referred to as “New residential property”) for a consideration of Rs. 4,27,41,300/-. The A.O observed that the aforementioned new residential property was purchased by the assessee as per an ‘agreement’ dated 29.12.2014 with the builder/developer, as per which the construction of the property was expected to be completed by September, 2017. The assessee on being called upon to furnish the details of the payments made towards purchase of the aforementioned residential property submitted the same as under:-

<u>Date</u>	<u>Amount</u>
22.10.2012	Rs. 1100000
21.11.2012	Rs. 7271781

However, the AO was not inspired as regard the veracity of the aforesaid details of payments furnished by the assessee. It was noticed by the A.O that there was no mention of the said payments in the purchase agreement, dated 29.12.2014 that was executed between the assessee and the builder/developer viz. M/s. L&T Parel Project LLP. On the basis of the aforesaid facts, the A.O observing that the assessee had failed to substantiate his claim of exemption u/s. 54 of the I.T Act amounting to Rs. 1,74,68,020/-, declined to allow the same. The A.O while concluding as hereinabove observed that neither the assessee had invested the amount of the LTCG in the new residential flat nor deposited the same in a Capital Gain Account Scheme (for short ‘CGAS’) as envisaged in sub-section (2) of Section 54 of the I.T Act.

4. Aggrieved, the assessee carried the matter in appeal before the CIT(A). The assessee in the course of the appellate proceedings in order to substantiate his claim of having invested the amount towards purchase of the new residential property viz. Crescent Bay, L&T Parel Project, Mumbai, therein furnished the details of the payments made in respect of the said investment, as under:-

S.No	Milestone	Due date	Date of Payment	Amount (Rs.)	Service Tax (Rs)	Total (Rs)
1	Application Money	0B-Nov-12	28-Oct-12	10,67,029	32,971	11,00,000
2	Earnest money	06-Dec-12	29-NOV-12	70,53,818	2,17,963	72,71,781
3	On Completion of Podium Plinth	05-Oct-13	05-Oct-13	47,01,543	1,74,333	48,75,876
4	2nd Podium Floor Slab	24-Dec-13	24-Dec-13	21,37,065	79,242	22,16,307
5	5th Podium Floor Slab	06-Feb-14	06-Feb-14	21,37,065	79,242	22,16,307
6	2nd Floor Slab	11-May-14	10-May-14	23,50,772	87,167	24,37,939
7	7th Floor Slab	12-Jul-14	12-Jul-14	23,50,772	87,167	24,37,939
8	12th Floor Slab	16-Sep-14	15-Sep-14	23,50,772	87,167	24,37,939
9	18th Floor Slab	02-Dec-14	12-Dec-14	23,50,772	87,167	24,37,939
	Stamp Duty	23-Dec-14	23-Dec-14	21,37,100	-	21,37,100
	VAT	08-Jan-15	23-Dec-14	4,27,413	-	4,27,413
10	24th floor Slab	01-Apr-15	31-Mar-15	23,50,772	87,167	24,37,939
				3,14,14,893	10,19,586	3,24,34,479

It was the claim of the assessee before the CIT(A) that as an amount of Rs. 2,49,94,088/- i.e much in excess of the amount of LTCG that had arisen on the sale of the old flat was invested by him towards purchase of the new residential property before the filing of the revised return of income by him on 15/11/2014 u/s 139(5) of the I.T Act, therefore, his claim for exemption u/s. 54 was well in order and the A.O misconceiving the facts and the settled position of law had erred in declining to accept the same. Insofar the adverse inferences that were drawn by the A.O for the reason that the residential property was expected to be completed only by September, 2017 i.e. beyond the time period specified u/s. 54 of the I.T Act was concerned, it was submitted by the assessee that as the completion of the construction of the new residential property was beyond his control, therefore, now when he had made the requisite investment towards purchase of the new residential property, hence no adverse interferences as regards

his entitlement towards claim of exemption u/s 54 was liable to be drawn on the said count.

5. The CIT(A) after deliberating at length on the contentions advanced by the assessee was persuaded to subscribe to the same. The CIT(A) finding favour with the claim of the assessee that as the completion of the construction which was expected to take place by September 2017 was beyond his control, therefore, observed that no adverse inference on the said ground was liable to be drawn while deciding his entitlement towards claim of exemption u/s. 54 of the I.T Act. The CIT(A) while concluding as hereinabove relied on the order of the ITAT, Mumbai in the case of Hasmukh N. Gala vs. ITO (ITA no. 7512/Mum/2013, dated 19.08.2015). As regards the quantification of the entitlement of the assessee towards claim of exemption u/s. 54, it was observed by the CIT(A) that the assessee up till the 'due date' of filing of his return of income i.e. 31.07.2013 had invested an amount of Rs. 83,71,781/- only. On the basis of the aforesaid facts, the CIT(A) was of the view that the assessee was entitled for claim of exemption u/s. 54 only to the extent he had invested the LTCG upto the "due date" of filing of his return of income for the year under consideration i.e A.Y 2013-14. In the backdrop of his aforesaid deliberations the CIT(A) concluded that the assessee was entitled for exemption of an amount of Rs. 83,71,781/- u/s 54, i.e. the amount which was invested by him up till the "due date" of filing of his return of income. Resultantly, the CIT(A) directed the A.O to restrict the disallowance of the exemption claimed by the assessee under the aforesaid statutory provision to the extent of Rs. 60,79,680/-. The CIT(A) while concluding that only the amount invested before filing of the return of income by the assessee would be eligible for exemption u/s. 54, relied on the judgment of the Hon'ble High Court of Bombay in the case of Humayun Suleman Merchant Vs. Chief Commissioner Of Income-Tax (2016) 242 Taxman 189 (Bom).

6. The assessee being aggrieved with the order of the CIT(A) to the extent he had upheld the disallowance of his claim of exemption u/s. 54 of the I.T Act, has carried the matter in appeal before us. The Ld. Authorised Representative (for short 'A.R') for the assessee took us through the facts of the case. It was submitted by the Ld. A.R that as the assessee had invested an amount of Rs. 2,49,94,088/- i.e. much in excess of the LTCG of Rs. 1,44,51,461/- (after indexation) that had arisen on the sale of the old residential flat up till 15.11.2014 i.e. the date on which the revised return of income was filed u/s. 139(5) of the I.T Act, therefore, his claim of exemption u/s. 54 of the entire amount of LTCG on the sale of the aforementioned property was well in order. It was averred by the Ld. A.R that the CIT(A) had erred in misconstruing the judgment of the Hon'ble High Court of Bombay in the case of Humayun Suleman Merchant Vs. Chief Commissioner Of Income-Tax (2016) 242 Taxman 189 (Bom). The Ld. A.R taking us through the facts involved in the case before the Hon'ble High Court, submitted that in the said case the assessee had sold a plot of land on 29.04.1995 for a consideration of Rs. 85.33 lacs. Thereafter, on 16.07.1996 the assessee entered into an agreement to purchase a new residential flat for a consideration of Rs. 69.06 lacs. The assessee paid two instalments of Rs. 10 lac each on 17.07.1996 and 26.10.1996 to the developer/builder, i.e. before the 'due date' for filing of his return of income u/s. 139(1) i.e. 31.10.1996. On 01.11.1996 the assessee paid to the developer a further instalment of Rs. 15 lac for purchase of the aforementioned residential flat pursuant to the 'agreement' dated 16.07.1996. As on 04.11.1996 the assessee filed his return of income for the assessment year 1996-97. The return of income filed by the assessee was beyond the "due date" envisaged under Sec. 139(1) for filing of the same. As on 30.03.2001, the A.O passed an assessment order determining the net consideration at Rs. 75.39 lac. The A.O allowed the proportionate exemption of Rs. 31.55 lac (out of Rs. 35 lac paid till the filing of the 'return of income') from the capital gains in terms of section 54F. Insofar the balance consideration which was

subsequently paid by the assessee for purchase of the aforementioned residential flat pursuant to the 'agreement' dated 16.07.1996 was concerned, the same was brought to tax under the head "capital gains" on account of the failure of the assessee to utilise the said consideration for purchase of the flat or depositing of the same in the specified bank account in accordance with the scheme of the Central Govt. as provided under section 54F(4). On appeal, the CIT(A) upheld the order of the A.O. Further, the appeal filed by the assessee was dismissed by the Tribunal. On further appeal filed by the assessee, the Hon'ble High Court held that the Tribunal was right in holding that the A.O had rightly computed the deduction u/s. 54(F) by restricting the exemption u/s 54F proportionately to the amount invested by the assessee. In sum and substance, the Hon'ble High Court observed that the payment of Rs. 35 lac made by the assessee towards purchase of the new residential flat viz. (i) 17.07.1996 (Rs. 10 lac) ; (ii) 23.10.1996 (Rs. 10 lac); and (iii) 01.11.1996 (Rs. 15 lac) was eligible for being considered for computing the exemption u/s 54F in the hands of the assessee. Admittedly, the Hon'ble High Court had held that the aforesaid amount of Rs. 15 lac paid by the assessee on 01.11.1996 i.e after the "due date" for filing of the return of income was also eligible for being considered while computing the assessee's entitlement towards claim of the exemption u/s. 54F of the I.T Act.

7. We shall now advert to the issue under consideration in the backdrop of our aforesaid observations. The issue involved in the present appeal lies within a narrow compass. Admittedly, the assessee had appropriated LTCG of Rs. 83,71,781/- only towards investment in the new residential property viz. Crescent Bay, L&T Parel Project, Mumbai, by the 'due date' of filing of his return of income for the year under consideration i.e 31.07.2013. Apart therefrom, the assessee had neither utilized the balance consideration for investing in the purchase of the new residential property by the 'due date' for filing of the return of income for the year under consideration, nor had

deposited the said amount in the CGAS account by the 'due date' contemplated under Sec. 139(1) for filing of the 'return of income' in his case i.e 31.07.2013. However, the assessee had invested an amount of Rs. 2,49,94,088/- towards purchase of the new residential property at Crescent Bay, L&T Parel project, Mumbai, upto the date of filing of his revised return of income u/s 139(5) on 15.11.2014. The CIT(A) being of the view that as the assessee had invested LTCG amounting to Rs. 83,71,781/- only towards purchase of the new residential property by the 'due date' of filing of his return of income for the year i.e 31.07.2013, and had neither invested the balance amount of LTCG for the said purpose nor deposited same in the CGAS account with the specified bank by the 'due date' of filing of the 'return of income' as envisaged under Sec. 139(1) in his case, therefore, had restricted his claim for exemption upto to the amount of Rs. 83,71,781/-.

8. We have given a thoughtful consideration to the issue before us and are unable to persuade ourselves to subscribe to the view taken by the CIT(A). On a perusal of Sec. 54(2), it emerges that the assessee in order to claim exemption under Sec.54 remains under an obligation to appropriate the amount of the capital gain towards purchase of the new asset within a period of one year before or two years after the date on which the transfer of the original asset took place, or has within a period of three years after that date constructed, a residential house. Where the capital gain is not appropriated by the assessee towards purchase or construction of the residential property upto the date of filing of the return of income under Sec. 139, then in such a case the entitlement of the assessee to claim the exemption by making an investment towards purchase or construction of the new asset would be available, though subject to the condition that the assessee had deposited the amount of such capital gain in the CGAS account with the specified bank by the 'due date' contemplated under Sec. 139(1) of the IT Act. Further, in case if any part of the capital gain had already

been utilized by the assessee for the purchase or construction of the new asset, the amount of such utilization along with the amount so deposited shall be deemed to be the cost of the new asset. On the basis of our aforesaid deliberations, we are of the considered view that the outer limit for the purchase or construction of the new asset as per sub-section (2) of Sec. 54 is the date of furnishing of the 'return of income' by the assessee under Sec.139. On a plain and literal interpretation of the aforesaid statutory provision, it can safely be gathered that the conscious, purposive and intentional providing by the legislature of "date of furnishing the return of income under Sec.139" cannot be substituted and narrowed down to Sec.139(1) of the IT Act. In our considered view the date of furnishing of the return of income under Sec.139 would safely encompass within its sweep the time limit provided for filing of the 'return of income' by the assessee under Sec.139(4) as well as the revised return filed by him under Sec. 139(5) of the IT Act. In the backdrop of the aforesaid settled position of law, we are of a strong conviction that sub-section (2) of Sec. 54 contemplates two situations viz. (i) a case where the assessee had utilized the amount of LTCG towards acquisition of the new asset within a period of one year before the date on which the transfer of the original asset took place or for the purchase or construction of the new asset before furnishing the return of income under Sec.139 of the IT Act; AND (ii) a case where the assessee had not utilized the amount of the capital gain before furnishing the 'return of income' under Sec.139, there he shall be eligible to claim exemption under Sec.54 towards purchase of the 'new asset' within a period of two years after the date on which the transfer took place or towards construction of a new asset within a period of three years from the date on which the transfer took place, subject to a rider that he should have deposited the unutilised amount of capital gain in a CGAS account with a specified bank by not later than the 'due date' applicable in his case for furnishing the 'return of income' under sub-section (1) of Sec.139. We find that the case before us clearly falls within the sweep of the

aforementioned 'first limb' i.e sub-section (1) of Sec.54 of the IT Act. As the assessee in the case before us had utilized an amount of Rs. 2,49,94,088/-(i.e much in excess of amount of LTCG on sale of the residential property) up till the date of filing of its revised return of income u/s 139(5) on 15.11.2014, therefore, his claim of exemption u/s. 54 in respect of the investment made towards the purchase of the new residential property at Crescent Bay, L&T Parel project, Mumbai up to the date of filing of the revised return of income u/s. 139(5) is found to be in order.

9. We may herein observe that as to whether an assessee would be eligible to claim exemption u/s. 54 to the extent he had invested in the new residential property up to the date on which he had filed a revised return of income had been looked into by a coordinate bench of the Tribunal i.e. ITAT 'F' bench, Mumbai, in the case of ITO-(IT)-2(3)(1), Mumbai vs. Mrs. Pamela Pritam Ghosh [ITA no. 5644/Mum/2016, dated 26.06.2018] for AY 2011-12. The Tribunal in its aforesaid order after considering the judgment of the Hon'ble High Court of Bombay in the case of Humayun Suleman Merchant Vs. Chief Commissioner of Income-Tax (2016) 242 Taxman 189 (Bom), had observed as under :

“ 4.2 We have heard the rival submissions and perused the relevant materials on record. The reasons for our decisions are given below.

In the case of Humayun Suleman Merchant (supra), the Hon'ble Bombay High Court has held that (i) amounts subject to capital gain on sale of capital asset for purpose of exemption has to be utilized before date of filing of return of income, (ii) mandate of section 54F(4) is clear that the amount which has not been utilized in construction and/or purchase of property before filing return of income, must necessarily be deposited in an account duly notified by Central Government, so as to be exempted, (iii) where assessee had filed return of income and entire amount which was subject to capital gains tax had not been utilized for purpose of construction of new house nor were unutilized amounts deposited in notified Bank Accounts in terms of section 54F(4) before filing return of income, the AO has rightly computed deduction u/s 54F, restricting exemption u/s 54F proportionately to amount invested.

In Humayun Suleman Merchant (supra), it has been held that where the amounts of capital gains is utilized before filing the return of income in

purchase/construction of a residential house, then the benefit of exemption u/s 54F is available.

In CIT v. K. Ramachandra Rao (2015) 56 taxmann.com 163 (Karn), it has been held that the assessee having invested entire sale consideration in construction of a residential house within three years from the date of transfer, he could not be denied exemption u/s 54F on the ground that he did not deposit said amount in capital gains accounts scheme before due date prescribed u/s 139(1).

In CIT v. Ms. Jagriti Aggarwal (2011) 339 ITR 610 (P&H), the assessee sold her house property for 45 lakhs and claimed deduction u/s 54 of the Act. The AO declined the claim holding that the assessee failed to deposit the amount in the capital gains account scheme and also failed to purchase house property before the due date of filing the return of income. The Commissioner (Appeals) held that the assessee had purchased the new residential property on January 02, 2007 and the due date according to section 139(4) was March 31st, 2007 and thus, the assessee had complied with the provisions of section 54 of the Act. This order was confirmed by the Tribunal. On appeal by the revenue, the Hon'ble High Court held, dismissing the appeal, that the sale of the asset had taken place on January 13, 2006, falling in the previous year 2006- 07, the return could be filed before the end of the relevant assessment year 2007-08 i.e. March 31, 2007. Thus, sub-section (4) of section 139 provides the extended period of limitation as an exception to subsection (1) of section 139 of the Act. Sub-section (4) was in relation to the time allowed to an assessee u/s sub-section (1) to file the return. Therefore, such provision was not an independent provision, but relates to the time contemplated under sub-section (1) of section 139. Therefore, sub-section (4) had to be read along with sub-section (1).

Therefore, the due date for furnishing the return of income according to section 139(1) of the Act was subject to the extended period provided under sub-section (4) of section 139 of the Act.

In Rajesh Kumar Jalan (supra), it is held that from a reading of subsection (2) of section 54 of the Act, it is clear that only section 139 has been mentioned therein, in the context that the unutilized portion of the capital gains on the sale of property used for residence should be deposited before the date of furnishing the return of income u/s 139 of the Act and section 139 cannot mean only section 139(1) but it means all sub-sections of section 139.

In the instant case, the assessee filed her return of income for the impugned assessment year on 20.06.2011 declaring the total income of Rs.6,90,42,239/-. Subsequently, she revised her return of income on 24.07.2012 at a total income of Rs.3,37,72,410/-. In the revised return of income, the assessee claimed exemption u/s 54 of the Act. As per the details filed in the Paper Book (P/B) at page 10, the assessee remitted an amount of Rs.9,00,000/- to Australia on 4th March 2011 and further remitted Rs.2,90,00,000/- on 11 August 2011 and also remitted Rs.2 crore on 4th June 2012 from her Standard Chartered Bank Account.

In view of the above factual scenario, we follow the ratio laid down in aforementioned decisions and dismiss the 2nd ground of appeal.

5. Finally, we come to the 3rd ground of appeal. In the instant case the assessee had inherited the house property at Chennai from her mother who expired on 10.06.2001. The assessee's mother had inherited this property from her mother who had expired on 24.03.1946. Therefore, the assessee had claimed indexation from the financial year (FY) 1981-82 since her mother held her property from a date prior to 01.04.1981. However, the AO gave the benefit of cost indexation only from FY 2001-02.

5.1 In appeal the Ld. CIT(A) relying on the judgment of the Hon'ble Bombay High Court in the case of CIT v. Manjula J. Shah (2013) 355 ITR 474 (Bom) held that the assessee was right in taking 01.04.1981 as the date of acquisition and also applying it as the date for working out the indexation cost.

5.2 Before us, the Ld. DR relies on the order of the AO whereas the Ld. counsel of the assessee relies on the decision in Manjula J. Shah (supra) and the order of the Ld. CIT(A).

5.3 We have heard the rival submissions and perused the relevant materials on record. We find that the above issue has been decided by the Hon'ble Bombay High Court in Manjula J. Shah (supra). In that case the assessee's daughter, the previous owner, originally acquired the capital asset (flat) on January 29, 1993, and the assessee acquired the flat under a gift deed dated January 02, 2003, without incurring any cost. The assessee sold the capital asset on June 30, 2003, for Rs.1.10 crores. According to the AO, the asset was held by the assessee from February 01, 2003, and, therefore, the cost inflation index for 2002-03 would be applicable in determining the indexed cost of acquisition for the AY 2004-05. The Commissioner (Appeals) held that the LTCG had to be determined by computing the indexed cost of acquisition with reference to the cost inflation index for 1993-94 instead of the cost inflation index for the AY 2002-03 as held by the AO. This was confirmed by the Tribunal. On appeal, the Hon'ble High Court held that:

By applying the deeming provisions contained in Explanation 1(i)(b) to section 2(42A) the assessee was deemed to have held the asset from January 29, 1993, to June 30, 2003, by including the period for which the asset was held by the previous owner and, accordingly, held liable for long-term capital gains tax. While computing the capital gains, the indexed cost of acquisition had to be computed with reference to the year in which the previous owner first held the asset and not the year in which the assessee became the owner of the asset.

Facts being identical, we follow the above decision of the Hon'ble Bombay High Court and uphold the order of the Ld. CIT(A). Thus the 3rd ground of appeal is dismissed.

6. In the result, the appeal is dismissed."

10. We have deliberated at length on the issue under consideration i.e. the entitlement and quantification of the assessee's claim of exemption u/s. 54. In our considered view, in the backdrop of the facts of the case considered in the light of the aforementioned judicial pronouncements, it can be safely concluded that the assessee in the case before us was entitled to claim exemption u/s. 54 to the extent he had invested towards the purchase of the new residential property under consideration upto the date of filing of his revised return of income under Sec. 139(5) i.e. on 15.11.2014. As is discernible from the records, as the assessee had invested an amount of Rs. 2,49,94,008/- towards the purchase of the property under consideration up to 15.11.2014, i.e. the date of filing of the revised return of income u/s. 139(5) of the I.T Act, which we find is much in excess of LTCG of Rs. 1,44,51,461/- (after indexing) that had arisen on the sale of the aforementioned old residential flat, therefore, no part of the LTCG as rightly claimed by the assessee was liable to be brought to tax during the year under consideration. We thus in terms of our aforesaid observations set aside the order of the CIT(A) and vacate the disallowance of the assessee's claim of exemption u/s. 54 of Rs. 60,79,680/- as was sustained by him.

11. The appeal filed by the assessee is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 12.03.2019.

आदेश की घोषणा खुले न्यायालय में दिनांक: 12.03.2019 को की गई

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Sd/-
(RAVISH SOOD)
JUDICIAL MEMBER

Mumbai, dated: 12.03.2019

Nishant Verma
Sr. Private Secretary

copy to...

1. The appellant
2. The Respondent
3. The CIT(A) – Concerned, Mumbai
4. The CIT- Concerned, Mumbai
5. The DR Bench,
6. Master File

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BY ORDER

DY/ASSTT. REGISTRAR
ITAT, MUMBAI