

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI GEORGE GEORGE K., JUDICIAL MEMBER
AND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.104/Bang/2019
Assessment Year: 2013-14

Shri Ramesh V. Shetty No.40, R&S Park View, Haines Road Frazer Town Bangalore-560 005 PAN NO : AGDPS 5427Q	Vs.	ACIT Circle-1(2)(1) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Shri B.T. Shetty, A.R.
Respondent by	:	Shri S. Sundar Rajan, D.R.

Date of Hearing	:	10.09.2020
Date of Pronouncement	:	11.09.2020

ORDER

PER GEORGE GEORGE K., JUDICIAL MEMBER:

This appeal at the instance of the assessee is directed against CIT(A) order dated 26.11.2018. The relevant assessment year is 2013-14. The solitary effective ground raised reads as follows:

“Ground No.2: The learned CIT(A) erred in upholding the addition of Rs.21,00,000/- and also failed to appreciate the facts and the provisions of the act under section 54E(1) and first proviso, that the investment was made in two different financial years which are well within the six months’ period from the date of transfer of long-term capital asset as stipulated u/s 54EC.”

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2. Brief facts of the case are as follows:
Assessee is an individual. For the assessment year 2013-14, return of income was filed by the assessee declaring total income of Rs.1,07,42,030/-. Assessee had sold a residential property and declared capital gains for a sum of Rs.70,90,317/-. Assessee had claimed deduction u/s 54EC of the Income Tax Act, 1961 (hereinafter 'the Act') for investment made in NHAI bonds. From the documents submitted by the assessee, it is evident that assessee had made application for allotment of bonds worth Rs.50 lakhs on 21.3.2013 and Rs.21 lakhs on 17.7.2013. Further, the letter of allotment received from NHAI also reflects the date of allotment at 31.3.2013 and 31.7.2013 respectively. However, the credit of the same was reflected in the Demat account of the assessee on 10.5.2013 and 5.9.2013 respectively.
3. The A.O. passed an order of assessment u/s 143(3) of the Act (order dated 29.1.2016), wherein he did not give deduction for a sum of Rs.21 lakhs u/s 54EC of the Act and he recomputed the assessee's total income at Rs.1,28,42,030/-. The A.O. concluded that both the investment in NHAI bonds happened in the same financial year i.e. in the financial year 2013-14.
4. Aggrieved by the order of the assessment in denying exemption u/s 54EC of the Act in respect to Rs.21 lakhs, assessee preferred an appeal to the first appellate authority. The CIT(A) confirmed the view taken by the A.O. in restricting the exemption of capital gains for

54EC bonds to sum of Rs50 lakhs. The CIT(A) relied on the order of Jaipur bench of the Tribunal in the case of ACIT Vs. Ram Kumar Jain and sons (HUF).

5. Aggrieved by the order of the CIT(A) assessee has preferred this appeal before the Tribunal. The Ld. A.R. has filed a paper book enclosing therein NHAI allotment letter of Rs.50 lakhs and Rs.21 lakhs on 23.3.2013 and 20.7.2013 respectively, copy of the sale deed, computation of income for assessment year 2013-14, the case laws relied etc.

6. The Ld. D.R. on the other hand strongly supported the order of assessment and the CIT(A) in restricting the claim of deduction to a sum of Rs.50 lakhs.

7. We have heard the rival submissions and perused the materials available on record. As per the provision of section 54EC(1) of the Act and its first proviso, it is clear that the time limit for investment is six months from the date of transfer and even if such investment falls under two financial years, the benefit claimed by the assessee cannot be denied. The amendment in Finance (No.2 Act) 2014 relate to assessment year 2015-16 (i.e. insertion of second proviso to section 54EC(1) and the same applies prospectively for and from assessment year 2015-16. A similar view was held by the Bengaluru Bench of the Tribunal in the following cases:

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- 1) *Shri Vivek Jairazbhoy Versus Deputy Commissioner of Income-tax (International Taxation) in ITA No.236/Bang/2012 of ITAT Bangalore Bench.*
- 2) *Deputy Commissioner of Income-tax Vs. Borkatte Ganapathi Hegde in ITA No.964/Bang/2016 of ITAT Bangalore.*

8. Since assessee had invested Rs.71 lakhs in two different financial years and within six months from the date of transfer of the capital assets, the limit of Rs.50 lakhs is per financial year. Hence, the assessee is eligible for deduction of Rs.71 lakhs u/s 54EC of the Act. It is ordered accordingly.

9. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 11th Sept, 2020

Sd/-
(B.R. Baskaran)
Accountant Member

Sd/-
(George George K.)
Judicial Member

Bangalore,
Dated 11th Sept, 2020.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.