IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.105

ITA No.183 of 2016 (O&M)
Date of decision: 24.08.2016

The Commissioner of Income Tax, Faridabad

....Appellant

versus

Sunil Sachdeva

....Respondent

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK SIBAL

* * * *

Present:- Mr. T.K. Joshi, Advocate
for the appellant.

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S.J. VAZIFDAR, CHIEF JUSTICE (ORAL)

C.M. No.14404-CII of 2016

For the reasons stated in the application, the delay of 980 days in re-filing the appeal is condoned.

CM stands disposed of.

C.M. No.14405-CII of 2016

CM is allowed as prayed for.

ITA No.183 of 2016

This is an appeal against the order of Tribunal in respect of the Assessment Year 2008-09.

2. According to the appellant the following substantial questions of law arise:-

(i) "Whether on the facts and circumstances of the

case learned ITAT was right in law in allowing deduction u/s 54F of the Income Tax Act, 1961 despite the assessee having not complied with the requirement of depositing the amount under Section 54F of the Income Tax Act, 1961 by the due date, namely before filing of the return under Section 139(1) of the Income Tax Act, 1961.

(ii) Whether on the facts and circumstances of the case the learned ITAT is right in law in allowing exemption of Rs.55,70,800/- on account of investment made in residential house by the company in which the assessee is one of the directors and not by the assessee (individual) as provided in law."

3. With reference to the first question, the alleged non-compliance of the provisions of Section 54F of the Income Tax Act, 1961 is that the amount was paid into the Special Capital Gain Account maintained by the respondent-assessee with the same branch of the Bank after a delay of one day, namely, on 31.07.2008 instead of on 30.07.2008. The Tribunal has recorded a finding of fact that the assessee had infact on the same day i.e. 30.07.2008 instructed the Bank to transfer the money from his saving account to Special Capital Gain Account maintained by him with the same branch. This finding of fact cannot be said to be perverse. As a matter of fact, the Bank transferred the money on the very next day. It is not the revenue's case that separate instructions were given on the next day either in writing or orally to the Bank to transfer the amount to the Special Capital Gain Account. Therefore, the same does not raise a substantial question of law. The appeal in this regard is dismissed.

4. The second question proceeds on the erroneous basis that the investment in the residential houses was made by the assessee. The Company had only lent money to the assessee to enable him to

purchase the property.

5. In these circumstances, the appeal is dismissed.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(DEEPAK SIBAL)
JUDGE

August 24, 2016
Jyoti 1

(i)	Whether speaking/reasoned	No
(ii)	Whether reportable	No