* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

+ I.T.T.A. No.519 of 2017

% 21-8-2017

The Prl. Commissioner of Income-tax-6,
Hyderabad

... Appellant

Vs.

$ M/s. B.Surendra Chowdary,
Prop. Sri Sai Ganesh Productions,
Plot No.16B, Road No.7, Film Nagar,
Jubilee Hills, Hyderabad-500 039

... Respondent

! Counsel for the Appellant: Ms. M.Kiranmayee,
Senior Standing Counsel

Counsel for the Respondent:---

< Gist:

> Head Note:

? Cases referred:
Nil.

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

I.T.T.A. No.519 of 2017

Judgment: (per V.Ramasubramanian, J.)

The Revenue has come up with the above appeal under Section 260A of the Income Tax Act, 1961, raising the following substantial questions of law:

> (i) Whether on the facts and in the circumstances of the case, the order of the Tribunal is not perverse in holding that the assessee is entitled for exemption u/S.54F of the Act? and
>
> (ii) Whether, on the facts and in the circumstances of the case, the Tribunal is correct in allowing deduction u/S.54F of the Act for a property alleged to have been purchased in the name of assessee's wife instead of purchasing the same in his name as provided under the provisions of Sec.54F of the Act?

2. Heard Ms. M.Kiranmayee, learned Senior Standing Counsel for the Department.

3. The assessee filed a return of income for the Assessment Year 2007-08 declaring a total income of Rs.14,12,860/-. In the course of survey operations, it was found that the assessee sold a property for a sale consideration of Rs.1,93,33,000/-, but failed to disclose the same as income from the capital gains. Therefore, a notice was issued under Section 148 of the Income Tax Act, 1961 and the Assessing Officer disallowed the claim under Section 54F. It was on the ground that the investment made

by the assessee was in the name of his wife and not in his name.

4. However, the Commissioner (Appeals) allowed the appeal filed by the assessee and the said order was also confirmed by the Tribunal. Aggrieved by the concurrent orders passed by the Commissioner (Appeals) and the Tribunal, the Revenue has come up with the above appeal.

5. It is seen from the orders of the Commissioner (Appeals) and the Tribunal that both of them proceeded on the basis of the interpretation given by various Courts, including the members of the family of the assessee, within the definition of the expression “assessee”. The Commissioner (Appeals) as well as the Tribunal held that the investment made by the assessee was qualified for the benefit of Section 54F.

6. The Revenue attempted to raise one more objection, namely, that the construction of the residential property was not completed. But the Tribunal recorded a finding of fact in paragraph-11.1 to the effect that the assessee’s representative produced a planning permission from the Corporation, water connection permission, property assessment receipt and electricity bill. The Tribunal also recorded a factual finding that the learned departmental representative verified the details and confirmed the same. We do not think that the questions of law raised arise for consideration. Hence, the

appeal is dismissed. The miscellaneous petitions, if any, pending in this appeal shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

T.RAJANI, J.

21st August, 2017.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SMT. JUSTICE T.RAJANI

<u>I.T.T.A. No.519 of 2017</u>
(per VRS, J.)

21st August, 2017.
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