

**IN THE INCOME TAX APPELLATE TRIBUNAL, KOLKATA
'A(SMC)' BENCH, KOLKATA [Virtual Court Hearing]**

Before Shri P.M. Jagtap, Vice-President

**I.T.A. No. 2122/KOL/2019
Assessment Year: 2014-2015**

Sri Pradip Kumar Basu,.....Appellant
Flat No. D/101, Mayfair Eternity,
Atlas More, 2596 N.S.C. Bose Road,
Kolkata-700145
[PAN:AGEPB8361P]
-Vs.-

Income Tax Officer,.....Respondent
Ward-26(2), Kolkata,
Aayakar Bhawan Dakshin,
2. Gariahat Road,
Kolkata-700068

Appearances by:

Shri Jahiruddin Munsif, A.R., appeared on behalf of the assessee
Shri Jayanta Khanra, JCIT, appeared on behalf of the Revenue

Date of concluding the hearing : May 10, 2021
Date of pronouncing the order : May 10, 2021

ORDER

This appeal filed by the assessee is directed against the order of the ld. Commissioner of Income Tax (Appeals)-7, Kolkata dated 17.01.2018 and the solitary issue involved therein relates to the addition of Rs.6,14,674/- made by the Assessing Officer and confirmed by the ld. CIT(Appeals) on account of long-term capital gain.

2. At the outset, it is noted that there is a delay of 484 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, the assessee has filed an application seeking condonation of the said delay and keeping in view the reasons given therein, I am satisfied that there was a sufficient cause for the delay of 484 days on the part of the assessee in filing this appeal before the Tribunal. Even the ld. D.R. has

not raised any objection in this regard. The delay of 484 days on the part of the assessee in filing this appeal before the Tribunal is accordingly condoned and the appeal of the assessee is being disposed of on merit.

3. The assessee in the present case is an individual, who filed his return of income for the year under consideration on 04.12.2014 declaring total income of Rs.5,96,040/-. In the said return, long-term capital gain arising for sale of residential property amounting to Rs.6,14,674/- was declared by the assessee and the same was adjusted against the loss of Rs.8,64,542/- arising from the commodity share transaction. Since the loss from commodity share transaction was not eligible for adjustment against the long-term capital gain arising from the sale of residential property, the Assessing Officer disallowed the claim of the assessee for such adjustment and made an addition of Rs.6,14,674/- to the total income of the assessee on account of long-term capital gain in the assessment completed under section 143(3) vide an order dated

7. 11.2016.

4. Against the order passed by the Assessing Officer under section 143(3), an appeal was preferred by the assessee before the Id. CIT(Appeals). During the course of appellate proceedings before the Id. CIT(Appeals), a new claim was made by the assessee seeking exemption of long-term capital gain on account of investment made in long-term capital gain bond by virtue of section 54EC of the Act. The Id. CIT(Appeals), however, found that the said investment was made by the assessee after a period of six months stipulated in the relevant provision and the assessee, therefore, was not entitled for exemption under section 54EC of the Act on account of long-term capital gain. He, therefore, disallowed the claim of the assessee and confirmed the addition made by the Assessing Officer on account of long-term capital gain. Aggrieved by the order of the Id. CIT(Appeals), the assessee has preferred this appeal before the Tribunal.

5. I have heard the arguments of both the sides and also perused the relevant material available on record. It is observed that the long-term capital gain of Rs.6,14,674/- had arisen to the assessee as a result of residential property sold on 12.06.2013 and in order to claim exemption on account of long-term capital gain under section 54EC of the Act, the assessee was required to make investment in the eligible bonds within six months from the date of transfer of the long-term capital asset i.e.

12.12.2013. Since the investment in the eligible bonds was admittedly made by the assessee on 21.01.2014 i.e. after the period stipulated in section 54EC, I find myself in agreement with the ld. CIT(Appeals) that the assessee is not entitled for the exemption under section 54EC. Even the ld. Counsel for the assessee has not been able to raise any material contention to dispute this position. He has only submitted that the assessee wanted to invest the long-term capital gain in purchase of another residential property and unable to find the suitable property, he

finally invested the amount in long-term capital gain bonds on 21.01.2020. In my opinion, this aspect is irrelevant to decide the eligibility of assessee for exemption under section 54EC, which specifically provides that the investment in eligible bonds is required to be made by the assessee within a period of six months from the date of transfer of the long-term capital asset in order to claim the exemption on account of long-term capital gain. I, therefore, find no merit in this appeal of the assessee and dismiss the same.

6. In the result, the appeal of the assessee is dismissed. Order pronounced in the open Court on May 10, 2021.

**Sd/-
(P.M. Jagtap)
Vice-President**

Kolkata, the 10th day of May, 2021

- Copies to :
- (1) **Sri Pradip Kumar Basu,
Flat No. D/101, Mayfair Eternity,
Atlas More, 2596 N.S.C. Bose Road, Kolkata-700145**
 - (2) **Income Tax Officer, Ward-
26(2), Kolkata, Aayakar
Bhawan Dakshin,
2. Gariahat Road, Kolkata-700068**
 - (3) *Commissioner of Income Tax (Appeals)-7, Kolkata,*
 - (4) *Commissioner of Income Tax ,*
 - (5) *The Departmental Representative*
 - (6) *Guard File*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.