

Sec. 54F exemption allowed on mere investment – completion of construction within stipulated period not essential

Summary – The Hyderabad ITAT in a recent case of Narasimha Raju Rudra Raju, (the Assessee) held that an assessee would be entitled to benefit under section 54F if he had invested amount of capital gain in purchasing or constructing a residential house, even though the construction is not complete within period stipulated.

Facts

- Assessee sold certain property on 29-10-2007 and made a capital gain. He claimed exemption under section 54F by stating that he invested the amount towards purchase of land and construction of house property by virtue of agreement entered into with company D on 19-3-2008; and that D had transferred that amount to company F which had concluded agreement of sale on 18-1-2010, in respect of the property.
- The Assessing Officer noted that as per agreement of sale, the construction of property would be completed within a period of 36 months from the date of agreement, with a grace period of 6 months. He held that the period of 3 years from the date of sale of that property made on 29-10-2007, expired on 29-10-2010, by which date the assessee had neither purchased any residential house nor had completed construction of any residential house as stipulated in section 54F and, therefore, the assessee was not eligible for deduction under section 54F.
- The Commissioner (Appeals) confirmed the action of the Assessing Officer.
- The issue before the ITAT was whether if the assessee makes investment towards purchase or construction of a residential house, exemption under section 54F can be denied on the ground that house has not been constructed within the stipulated period.

Held

- The ITAT held that the provision contained under section 54F being a beneficial provision has to be construed liberally. In various judicial precedents it has been held that the condition precedent for claiming benefit under section 54F is only that the capital gain realized from the sale of capital asset should be parted by the assessee and invested either in purchasing a residential house or in constructing a residential house.
- If the assessee has invested the money in construction of residential house, merely because the construction was not complete in all respects and it was not in a fit condition to be occupied within

the period stipulated, that would not disentitle the assessee from claiming the benefit under section 54F.

- Even investment made in purchasing a plot of land for the purpose of construction of a residential house has been held to be an investment satisfying the conditions of section 54F. Though there cannot be any dispute with regard to the abovesaid proposition of law, the assessee is required to prove the actual date of investment and the amount invested towards purchase/construction of the residential house with supporting evidence.
- The ITAT noted that since the primary facts relating to which date should be reckoned as the actual date of investment and which is the actual amount of investment have not been properly brought on record, the matter is to be remitted back to the file of the Assessing Officer who shall determine the issue with regard to assessee's claim under section 54F afresh.

Comments

- This is a welcome judgment for all assessee's who have faced summary dismissals of their cases before the Revenue Authorities. In many cases the assessee's face harassment due to section 54F benefits being denied due to non completion of construction – in most cases the delays are primarily on account of the builders and not the assessee.