

## ITAT allows sec. 54 relief for two flats as their layout plan indicated that both were used as a single unit

**Summary – The High Court of Bombay in a recent case of Devdas Naik, (the Assessee) held that where acquisition of two flats had been done independently but eventually they were a single unit and house for purpose of residence, claim under section 54 could not be denied.**

### Facts

- The assessee alongwith his wife jointly owned bungalow. The bungalow was sold for certain amounts. With this sum, they bought three flats, one in the assessee's name, another in the name of assessee and his wife and third in the name of the wife. The assessee claimed deduction under section 54 on purchase of two flats in which he was either a sole owner or a joint owner.
- The Assessing Officer disallowed said claim on ground that it was contrary to the legislature intent and also the plain language of section 54 of the Act.

### Held

- Though these flats were acquired under two distinct agreements and from different sellers, the map of the general layout plan as well as internal layout plan in regard indicate that there is only one common kitchen for both the flats. The flats were constructed in such a way that adjacent units or flats can be combined into one. However, admitted fact is that the flats were converted into one unit and for the purpose of residence of the assessee. It is in these circumstances, the Commissioner held that the acquisition of the flats may have been done independently but eventually they are a single unit and house for the purpose of residence.
- This factual finding could have been made the basis for recording a conclusion in favour of the assessee. The language of the section has been noted and it has been held that so long as there is a residential unit or house, then the benefit or deduction cannot be denied. In the present case, the unit was a single one. The flats were constructed in such a way that they could be combined into one unit. Once there is a single kitchen then, the plans can be relied upon. In this peculiar factual backdrop, this Appeal does not raise any substantial question of law. The appeal is devoid of any merit and is dismissed.