

No denial of sec. 54F benefit due to non-completion of construction in all respects within 3 years

Summary – The High Court of Karnataka in a recent case of Smt. B.S. Shanthakumari, (the Assessee) held that where assessee had invested net sale consideration on transfer of long-term asset in construction of a residential house property, deduction of section 54F could not be denied merely because the construction of house was not complete in all respects within 3 years of transfer

Facts

- The issue raised by the revenue before the High Court was:

"Whether Tribunal was right in allowing deduction under section 54F of the Income-tax Act ('the Act') to assessee though she hadn't completed the construction of house within three years as per section 54F"

Held

The High Court held in favour of assessee as under:

- (1) Section 54F of the Act is a beneficial provision which promotes construction of residential house. Such provision has to be construed liberally for achieving the purpose for which it has been incorporated in the Statute. The intention of the Legislature in inserting this provision was to encourage investments in the acquisition of a residential plot and completion of construction of a residential house in the plot so acquired.
- (2) A bare perusal of said provision does not even remotely suggest that it intends to convey that such construction should be completed in all respects in 3 years and/or make it habitable.
- (3) The essence of said provision is to ensure that assessee who received capital gains would invest same by constructing a residential house and if assessee is able to establish that he had invested the net consideration within the stipulated period, he would be entitled to get the benefit of Section 54F.
- (4) Though such construction of building may not be complete in all respects that by itself would not disentitle the assessee to the benefit flowing from Section 54F.
- (5) AO was not justified in denying Section 54F relief since assessee had invested entire consideration in a residential house property and also produced material evidence before

the CIT(A) to demonstrate that the construction was on the verge of completion by producing photographs.