

No denial of Sec. 54F relief if taxpayer is unable to get possession of flat due to builder's fault

Summary – The Mumbai ITAT in a recent case of Rajeev B. Shah, (the Assessee) held that Section 54F relief cannot be denied to assessee when he has invested entire sales consideration in purchase of residential house but he is unable to get possession of flat, which is under construction, due to fault of builder

Facts

The issue before the ITAT was:

- Whether Section 54F relief could be denied when assessee is not able to get the title of the flat or unable to get possession of the flat, which is under construction, due to fault of the Builder?

Held

The ITAT held as under:

- It is a fact that the assessee has invested amount in purchase of residential house within the stipulated period prescribed u/s 54F of the Act. But, it is not in the assessee's hand to get the flat completed or to get the flat registered in his name, because it was incomplete.
- The intention of the assessee is very clear that he has invested almost the entire sale consideration of land in purchase of this residential flat. It is another issue that the flat could not be completed and the matter is pending before the Hon'ble Bombay High Court seeking relief by the assessee by filing suit for direction to the Builder to complete the flat.
- It is impossible for the assessee to complete other formalities, i.e., taking over possession for getting the flat registered in his name and this cannot be the reason for denying the claim of the assessee for deduction u/s 54 of the Act. Thus, assessee is entitled for deduction under Section 54F.