ITAT allowed Rs. 1 crore relief claimed u/s 54EC as assessee invested Rs. 50 lakh each in 2 diff. FY

Summary – The Delhi ITAT in a recent case of Tulika Devi Dayal, (the Assessee) held that where assessee invested a sum of Rs. 50 lakhs each in two different financial years, within a period of six months from date of transfer of capital asset, he was eligible for deduction under section 54EC

Where assessee, a co-promoter of a company, sold shares with professional efforts of a broker and claimed cost incurred by him in making payment to said broker but Assessing Officer held that said cost was to be paid by company and not by assessee, whole issue needed re-examination by Assessing Officer

Facts

- The assessee claimed deduction under section 54EC of Rs. 1 crore by way of investment in REC Bonds.
- The Assessing Officer restricted the deduction to Rs. 50 lakhs under section 54EC as against Rs. 1 crore claimed by the assessee. He noted that the assessee made investment of Rs. 1 crore in REC bonds, *i.e.*, Rs. 50 lakh on 31-3-2011 and the remaining Rs. 50 lakhs on 30-4-2011. The assessee claimed the deduction of total investment under section 54EC. The Assessing Officer following first proviso to section 54(1) restricted the deduction to Rs. 50 lakh.
- On appeal, the Commissioner (Appeals) allowed the full deduction to the assessee.
- On revenue's appeal to the Tribunal:

Held

- In any event, from a reading of section 54EC(1) and the first proviso, it is clear that the time limit for investment is six months from the date of transfer and even if such investment falls under two financial year the benefit, claimed by the assessee, cannot be denied. It would have made a difference, if the restriction on the investment in bonds to Rs.50 lakhs is incorporated in section 54EC(1) itself. However, the ambiguity has been removed by the legislature with effect from 01-04-2015 in relation to Assessment year 2015-16 and the subsequent years.
- Thus, on plain reading of the abovesaid provision, section 54EC(1) restricts the time limit for the period of investment after the property has been sold to six months. There is no cap on the investment to be made in bonds. The first proviso to section 54EC(1), specifies the quantum of investment and it states that the investment so made on or after 01-04-2007 in the long term specified asset, by an assessee, during any financial year does not exceed fifty lakhs rupees.
- From the notes on clauses, Financial Bill 2014 and the memorandum explaining the provisions in Finance (No. 2) Bill 2014, it can be inferred that the intention of the legislature probably appears to be that this amendment should be for the assessment year 2015-16 to avoid unwanted litigation of

the previous years. In any event, from the reading of section 54EC(1) and the first proviso, it is clear that the time limit for investment in six months from the date of transfer and even if such investment falls under two financial years, the benefit claimed by the assessee cannot be denied. Thus, it is concluded that, prior to amendment, the time limit of Rs.50 lakhs as prescribed under section 54EC is per year and if the assessee invest Rs.50 lakh each in two different years, otherwise fulfilling other conditions of section 54EC, thus assessee will be entitle to the benefit of Rs.1 crore and not merely Rs. 50 lakhs. Thus, the limit of Rs.50 lakh under the first proviso is not per assessee but per financial year. So far as, the amendment made by the Finance Act, 2014 is with effect from 01-04-2015, i.e., assessment year 2015-16 onwards and cannot be held to be retrospective. Thus, the assessee is entitle to deduction under section 54EC as claimed by him and does not restrict the addition as has been done by the Assessing Officer. The stand of the Commissioner (Appeal) is, therefore, affirmed, resulting into dismissal of the appeal of the revenue.