

Residential house purchased abroad was entitled to Sec. 54F relief prior to amendment made by Finance Act, 2014

Summary – The Mumbai ITAT in a recent case of Ashok Keshavlal Tejuja, (the Assessee) held that where out of capital gain on sale of share in a private company in India, assessee purchased a residential house abroad in assessment year 2011-12 i.e. prior to amendment of section 54F by Finance Act, 2014 with effect from 1-4-2014, he had to be allowed benefit of deduction under section 54F

Claim for converting short-term capital gain into long-term capital gain can be made for first time before appellate authority even without filing a revised return

Facts

- The assessee sold his 50 per cent share in a private limited company in India and purchased a residential flat in Dubai and claimed deduction under section 54F.
- The Assessing Officer denied deduction to the assessee under section 54F.
- On appeal, the Commissioner (Appeals) concurred with the Assessing Officer on ground that residential house property purchased by the assessee was situated outside India and, hence, deduction under section 54F would not be available to the assessee.
- On appeal to the Tribunal:

Held

Benefit of exemption to Investment made outside India in Residential property

- There is an amendment by Finance Act, 2014 in section 54F, with effect from 1-4-2015 wherein the benefit of deduction under section 54F will be allowed only when reinvestment in residential house property is made within India. Prior to the aforesaid amendment, there was no bar for the taxpayer making investments outside India in residential house property to get the benefit of deduction under section 54F provided other conditions are fulfilled. The instant appeal is concerned with Assessment year 2011-12 which is prior to amendment of section 54F by Finance Act, 2014 with effect from 1-4-2015. There is no dispute between rival parties so far as compliance of the other conditions by the assessee as stipulated under section 54F to get the benefit of deduction under section 54F are concerned. The Gujarat High Court in the case of *Leena Jugalkishore Shah v. Asstt. CIT* [\[2016\] 72 taxmann.com 185/\[2017\] 392 ITR 18](#) has allowed the deduction under section 54F to the taxpayer making investments outside India in residential house properties.

- Thus the claim of the assessee for deduction under section 54F for investment made outside India in the residential flat in Dubai, UAE, was to be accepted.