

Sum deposited in capital gain account scheme before filing belated ITR - Sec. 54F relief to be allowed

Summary – The Mumbai ITAT in a recent case of Nilima Abhijit Tannu, (the Assessee) held that the sum deposited by assessee in capital gain account scheme before filing belated ITR will qualify for Sec 54 relief

Facts

- The assessee earned long term capital gain from sale of shares and claimed deduction under section 54F against deposit of amount in capital gain account scheme. Subsequently, the assessee invested sale proceeds in purchase of residential flat within a period of 2 years from the date of sale of shares.
- The Assessing Officer rejected assessee's claim for deduction on ground that assessee did not deposit amount in capital gain account scheme before expiry of time period provided under section 139(1).
- The Commissioner (Appeals), however, allowed assessee's claim.
- On second appeal:

Held

- The ITAT stated that the provisions of section 54 are beneficial provisions and are to be construed liberally. Section 54F only talks about deposit within the prescribed time period. It is mentioned in the section that the unutilised portion of the capital gain on the sale of property used for residence should be deposited before the date of furnishing the return of tax under section 139. This does not mean that the time period is as per section 139(1), but it means all sub-sections of section 139. Accordingly, the assessee is entitled deduction under section 54 for utilization of sale consideration for investment in new residential property within due date as stipulated under section 139. Since the assessee has fulfilled the requirement under section 54 for exemption of the capital gain, therefore the assessee is entitled for the same.
- In view of aforesaid, there was no reasons to interfere into or deviate from the findings recorded by the Commissioner (Appeals).
- Resultantly, this ground raised by the revenue stands dismissed.