

No denial of Sec. 54 relief if delay to give possession of new house was on account of developer

Summary – The Delhi ITAT in a recent case of Varun Seth, (the Assessee) held that No denial of Sec. 54 relief if delay to give possession of new house was on account of developer

Facts

- The assessee earned in long term capital gain of Rs. 1.92 crores on sale of house property and claimed exemption under section 54 of Rs. 1.58 crores on acquisition of allotment of a residential plot and for Rs. 25,10,000/- deposited in Capital Gain Account to be utilized in the construction of new residential house thereon.
- The Assessing Officer denied the exemption of Rs. 1.58 crores for the investment made in plot for the reasons that assessee neither purchased a house nor constructed a house within the stipulated time under section 54.
- The Commissioner (Appeals) held that the Assessing Officer was fully justified in rejecting the claim of the assessee under section 54.
- On assessee's appeal to the Appellate Tribunal :

Held

- The ITAT held that in instant case if the assessee sells his house property and utilises the money for acquiring a plot for the construction of the house and as per the facts and circumstances the assessee intended to construct the house then the assessee wanted to avail exemption as provided under the law. If the developer after receiving the money could not fulfil the obligation within time, the assessee cannot be held responsible for not complying the law.
- On the facts of the instant case, amount utilized by the assessee in the acquisition of land should be construed as amount invested in purchase/construction of residential house. The intention of the statute as provided in section 54 has been fully satisfied by the assessee in the present case. Thus, assessee is entitled for exemption under section 54.