

## **Section 54 relief not to be denied merely because assessee claimed exemption under wrong sub section**

**Summary – The Mumbai ITAT in a recent case of Jai Kumar Gupta (HUF), (the Assessee) held that Section 54 relief was not to be denied merely because assessee claimed exemption under wrong sub section**

### **Facts**

- During the year, against the long-term capital gain on sale of a residential house, the assessee had offered net long-term capital gain and claimed deduction of the said amount under section 54F.
- Thereafter, the assessee requested the AO to allow claim of deduction under section 54 as he had wrongly claimed deduction under section 54F instead of section 54.
- However, the Assessing Officer denied the claim as per section 54 since on the date of transfer of building, the assessee was owner of more than one residential house other than the new asset. The Assessing Officer ultimately rejected assessee's claim of deduction both under section 54 as well as section 54F.
- The Commissioner (Appeals) observed that if by ignorance of law or mistake assessee had claimed the deduction under a wrong provision, the Assessing Officer could not take advantage of it and assessee would be eligible to claim deduction under section 54 if it had invested the capital gain within the period prescribed under section 54 and flats had been allotted in his name. Accordingly, he allowed assessee's claim under section 54.
- On appeal:

### **Held**

- The ITAT stated that on a reading of section 54, it is very much clear, that while section 54 is applicable to investment of long term capital gain arising from transfer of residential house, section 54F applies to long term capital gain arising from sale of assets other than residential house. In the present case, there is no dispute that capital gain arises from transfer of a residential house. That being the case, if the assessee invests the capital gain in purchase/construction of a new residential house, it is eligible to claim deduction under section 54. Merely because the assessee, by ignorance of law or mistake, has claimed deduction under section 54F instead of section 54 such ignorance of law/mistake on the part of the assessee cannot be utilized to its disadvantage by the Assessing Officer. In view of the aforesaid, there is no infirmity in the decision of the Commissioner (Appeals) in this regard.