

## **Property received on account of family settlement not taxable**

**Summary – The Delhi ITAT in a recent case of Govind Kumar, Khemka, (the Assessee) held that property received on account of family settlement is not taxable in hands of the recipient.**

### **Facts**

- The assessee filed return of and the Assessing Officer on perusal of the Memorandum of Family Settlement (MFS) noted that assessee had acquired the Bungalow at New Delhi, due to relinquishment of rights in the said property by three brothers of the assessee for Rs. NIL consideration.
- The Assessing Officer, therefore, noted that provisions of section 56(2)(vii)(b) are attracted and the exclusion provided in proviso to section regarding 'relatives' does not apply in this case. The Assessing Officer accordingly, made addition under section 56(2)(vii)(b).
- On appeal, the Commissioner(Appeals) confirmed the addition.
- On appeal to the Tribunal:

### **Held**

- The Tribunal noted that since there was a Family Settlement between the assessee and three brothers they have entered into genuine transaction.
- No commercial transaction have been entered into between the assessee and his brothers and there is no colourable device.
- Therefore, this term has no consequence to the above provisions in which the Assessing Officer made the addition. Accordingly, the orders of the authorities below are set aside and the entire addition is deleted. Accordingly, appeal of assessee on above grounds are allowed.
- In the result, appeal of assessee are partly allowed.