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08/17



UPDATES COVERED:
1. Deduction under Section 54F

Deduction under Section 54F of Income Tax Act, 1961

- Contributed by CA Ramprasad T

Brief of Update:

An update pertaining to deduction under Section 54F of Income Tax Act, 1961 for under constructed property can be claimed second or third time if the cost is within the capital gain as per the recent judgment as discussed herein.

Income Tax Act provides exemption from payment of tax on Long Term Capital Gain arising from transfer of property other than Residential House Property. Section 54F which provides the above exemption mention that to claim exemption the transferor must make investment of net consideration in new residential house property within the time frame provided therein. This judgement has analysed the provisions of the said section to conclude on timing of investment (whether one-time investment or multiple time investment within the time frame provided in the law) to claim exemption.

Brief of Update:

Facts:

Assessee has sold 5 properties and made investment of sale consideration in construction of incomplete property accordingly claimed deduction U/S 54F.

In the past assessee has claimed deduction U/S 54F for the construction of same incomplete property.

AO has denied the deduction U/s 54F contending that the deduction can be allowed only for the investment made once and not subsequent time. AO has also considered the uncompleted residential property as property held on the date of transfer .

Assessee has one completed house property and one under construction house property. The completed house property was given on rent and offered the same under the head income from house property. Since completed property was not occupied for residence purpose assessee is having one under construction house property on the date of transfer.

Assessee contented that he it was holding only one residential house property.

As per section 54F assessee should not hold more than one residential property other than new one.

Ruling of CIT(A):

The beneficial provisions of section 54F must be interpreted liberally. There is no bar in section 54F for claiming deduction second time or third time for the same property if the cost of the property is within capital gain.

Take Away:

On further appeal the ITAT held that under construction can't said to be residential house property by the assessee. It agreed with the ruling given by the CIT(A) and allowed the deduction U/s 54F.

Take Away:

Investment can be made more than once in same asset within the time limit permitted by the law. The relevant part is that even capital gain in the subsequent years within the time limit can be utilised for claiming the deduction U/s 54F provided other conditions of the section are met.



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