



## CASE LAWS ON SECTION – 54F OF THE INCOME TAX ACT, 1961

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**About Section 54F:** Section 54F of the Income Tax Act allows one to claim exemption from tax on long-term capital gains, if the same is used for the purchase or construction of a house within specified time limits. Following are the key points in respect of this section:

- Assessee is an Individual or HUF.
- Capital Gain arises from the Sale of any capital asset other than Residential House.
- Time limit of Purchase or Construction: Purchase should be made within 1 year before or 2 years after the date of transfer; Construction should be *complete* within 3 years from date of transfer.

Let's discuss certain issues in respect of the above section using relevant judicial pronouncements as references:

1. **Issue:** Can exemption under section 54F be denied solely on the ground that the new residential house is purchased by the assessee exclusively in the name of his wife?

**Reply:** Reference-[2013] 30 taxmann.com 34 (Delhi) HIGH COURT OF DELHI, Commissioner of Income-tax-XII v. Kamal Wahal

In the above case, the seller has sold a property owned by him; in order to claim the exemption u/s 54F he made an investment in a new property in the name of his wife. However, she had not contributed any fund to purchase the said property. In this case, the High court has clarified that a new residential house need not be purchased exclusively in the name of the seller. Further the court held that the assessee had not purchased the new house in the name of a stranger or somebody who is unconnected with him, but had purchased in the name of his wife. In addition to the above, the entire investment for purchase of the new residential house had come out of the sale proceeds of the asset of the seller.

Hence, the assessee is entitled to claim exemption under Section 54F in respect of utilization of sale proceeds of capital asset for investment in residential house property in the name of his wife.

2. **Issue:** In case of a house property registered in joint names whether the exemption under Section 54F can be allowed fully to the co-owner who has paid whole of the purchase consideration of the house property or will it be restricted to his share in the house property?

**Reply:** Reference-[2011] 15 taxmann.com 307 (Delhi) HIGH COURT OF DELHI Commissioner of Income-tax v. Ravinder Kumar Arora

In the given case, the assessee sold a land owned by him and claimed exemption of capital gain under section 54F on account of purchase of new house. The Assessing Officer took the view that the assessee was entitled to exemption under section 54F only to the extent of his right in the new residential house purchased jointly with his wife thereby allowing only 50 per cent of the exemption claimed under section 54F as against total claim.

However, the high court held that the assessee was the real owner of the residential house in question and mere inclusion of his wife's name in the sale deed would not make any difference. The court also observed that Section 54F mandates that the house should be purchased by the assessee but it does not stipulate that the house should be purchased *only* in the name of the assessee.

Hence, the conditions stipulated in Section 54F stand fulfilled and the entire exemption claimed in respect of purchase price of the house property shall be allowed to the assessee.

3. **Issue:** Can exemption under section 54F be denied to an assessee in respect of investment made in construction of a residential house, on the ground that the construction was not completed within 3 years after the date on which transfer took place, on account of pendency of certain finishing work like flooring, electrical fittings, fittings of door shutter, etc?

**Reply:** Reference- [2012] 19 taxmann.com 17 (Karnataka) HIGH COURT OF KARNATAKA Commissioner of Income-tax v. Sambandam Udaykumar

In the given case, the assessee sold shares of a company and part of the proceeds of the said sale consideration was invested in purchase of house property. Accordingly, the assessee claimed exemption under section 54F to the extent of such investment. The Assessing Officer found that the construction activities with regard to the residential property were stopped and the flooring work, electrical work, fitting of door shutters and window shutters were still pending thereby concluding that construction was not complete even after lapse of three years of time from the date of transfer of the shares on which capital gain was derived.

However, the court observed that condition for claiming the benefit u/s 54F is that capital gains realized from sale of capital asset should have been invested either in purchasing a residential house or in constructing a residential house within the stipulated period. Merely because the construction was not completed in all respects and possession could not be taken within the stipulated period, would not disentitle the assessee from claiming exemption u/s 54F

Hence, the assessee would be entitled to exemption u/s 54F in respect of the amount invested in construction within the prescribed period.