

Capital Gain Exemption available for Multiple Flats obtained under JDA

Fact of the Case

1. In the present problem the assessee entered into a Joint Development Agreement with M/s. OCEANUS DWELLINGS (PVT) LTD., BANGALORE, in terms of which the assessee was entitled to 13 flats with a total plinth area of 16,819 Sq Ft in lieu of transfer of 71% undivided share in the land situated at site No 26/B Industrial Suburb 3rd Stage Mysore, belonging to the assessee.
2. The assessee pointed out that the law is clear to the effect that exemption under section 54F is available in respect of investment in the acquisition of more than one house by the assessee.
3. Before the authorities, the assessee relied on decisions of Karnataka High Court in Anand Basappa case and Smt K.G. Rukminiamma case and submitted that the entire Long Term Capital Gain of Rs. 1,15,74,390.00 is entitled to exemption under section 54F of the Act of 1961.

Decision of the Case

1. While allowing the plea of the assessee, the Tribunal bench comprising Vice President N V Vasudevan and Accountant Member B R Bhaskaran held that “we notice from the perusal of the order of the AO that he has come to the conclusion that the assessee held the property that was the subject matter of JDA as stock in trade and therefore the assessee was not eligible to claim deduction under section 54F of the Act.
2. This finding of the AO is without any basis and is liable to be vacated.
3. The second issue that the AO has to consider is whether the assessee would be entitled to deduction under section 54F of the Act.
4. The Bangalore bench of the Income Tax Appellate Tribunal (ITAT) has held that the capital gain exemption under section 54F of the Income Tax Act, 1961 is available to multiple flats obtained by the assessee under a joint development agreement (JDA).