

## Capital Gain Deduction allowable for Purchase of House Property Abroad

### Joseph K. Zachariah Vs ACIT (International Taxation) (ITAT Bangalore)

Case No.- IT(IT)A No. 879/Bang/2019

Date- 23/12/2020

#### Fact of the Case

- ⇔ In the present case Joseph K. Zachariah is the assessee
- ⇔ The assessee, Joseph K. Zachariah earned long term capital gain at Rs.10.18 Crores. The assessee has invested in construction of a new residential house within the due date under section 139(1) of the Act.
- ⇔ The assessee is having balanced capital gains, which ought to have been used for construction of residential houses or should have been deposited in the capital gain account notified by the Central Government in terms of section 54(2) of the Act. The assessee has not invested an amount which should have been invested in a capital gain account scheme.
- ⇔ However, by that time, he has not utilized the amount in construction of new residential houses or deposited the same in the capital gain account scheme as notified by the Central Government.
- ⇔ The assessee contended that even if the assessee deposited an unutilized portion of capital gain after the due date provided under section 139(1) of the Act, assessee is entitled for deduction under section 54 of the Act.

#### Decision of the Case

- ⇔ The Coram headed by the Vice President, N.V. Vasudevan directed that the assessee shall furnish necessary evidence of construction or purchase of new residential property in Chicago, USA and also directed the AO has to examine the same and decide the issue in the parameters of section 54F of the Act.
- ⇔ The Income Tax Appellate Tribunal (ITAT), Bangalore Bench held that the capital deduction is allowable for purchase of house property abroad.