



MUM ITAT: Date Of Transfer Is Legally Enforceable Sale Agreement Date, Not Registration Date Relevant For Section 54 Exemption

Facts of the Case

The taxpayer sold a residential flat through agreement for sale dated December 1, 2016, with transfer deed being registered on March 30, 2017. Substantial advance consideration was also received at the time of agreement for sale, accompanied by irrevocable commitment to sell the property.

The taxpayer also purchased a new residential property within 12 months prior to the date of the agreement for sale (i.e. December 1, 2016) and claimed exemption u/s 54 of the Income-tax Act, 1961 (ITA) from capital gain resulting from the aforesaid transfer.

However, the Revenue denied the taxpayer's claim of exemption u/s 54 of ITA on the ground that the purchase of another property was more than 12 months prior to date of registration of transfer deed (March 30, 2017).

Contentions of the Taxpayer

It was argued on behalf of the taxpayer that the agreement for sale dated December 1, 2016 should be construed as the date of transfer of the property, as it entailed an irrevocable commitment to sell the property to the purchaser; and therefore, the period of 12 months should be counted backwards from this date.

Reliance was placed on section 2(47)(ii) of ITA which includes any transaction having effect of transferring or extinguishing rights in a capital asset, within the purview of the term 'transfer'.

Observations and Ruling of the Tribunal

After perusing the terms of the agreement for sale, the Tribunal noticed that the taxpayer had received a substantial part of the consideration well before registration of the transfer deed, clearly evidencing part performance and contractual enforcement.

The Tribunal further observed that it had been consistently affirmed in various judicial precedents that the date of an agreement for sale, accompanied by transfer of possession or rights to enforce the agreement was to be considered as the date of transfer u/s 2(47) of ITA.

Consequently, the Tribunal upheld the taxpayer's contentions and allowed the exemption u/s 54 of ITA, on the basis that the new property was purchased within 12 months prior to the date of transfer, i.e. that date of the agreement for sale.

Citation:

Poonam Dhananjay Sandu v. ITO [TS-1624-ITAT-2025(Mum)]



Our Comments

The ruling confirms that the date of a legally enforceable agreement for sale, rather than the date of registration of transfer deed, would be relevant for computing the period allowed u/s 54 of ITA for investing in a new house property.

Though this interpretation helped the taxpayer in the light of the facts in the instant case, it raises a flag for the taxpayers planning to buy / construct a house property after the date of transfer of another property, as the period allowed for investment would be reckoned from the date of a legally enforceable agreement for sale, which often precedes the date of registration of the transfer. But the Tribunal has been generally taking a liberal view in such cases with a view to do justice if otherwise there has been substantial compliance with the requirements of the provisions of law in this regard.