

Capital Gain Tax Exemption on Residential Property: Landmark Judgments – Part A - 360 Property Management Services

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Capital Gain Tax Exemption on Residential Property: Landmark Judgments – Part A - 360 Property Management Services Property Management for your Rental Properties, Letting out for rent in Chennai Coimbatore India Home About Us Services Property Management Property Renting Real Estate Builders Property Monitoring Home Repairs Tenant Management Company FAQ Testimonials Blog True Stories Company Properties Properties in Chennai Coimbatore & Other Cities Contact Us Property Management for your Rental Properties, Letting out for rent in Chennai Coimbatore India Home About Us Services Property Management Property Renting Real Estate Builders Property Monitoring Home Repairs Tenant Management Company FAQ Testimonials Blog True Stories Company Properties Properties in Chennai Coimbatore & Other Cities Contact Us +919087005533 Property Management for your Rental Properties, Letting out for rent in Chennai Coimbatore India Home About Us Services Property Management Property Renting Real Estate Builders Property Monitoring Home Repairs Tenant Management Company FAQ Testimonials Blog True Stories Company Properties Properties in Chennai Coimbatore & Other Cities Contact Us +919087005533 News Capital Gain Tax Exemption on Residential Property: Landmark Judgments – Part A By admin Posted in Property Management On January 13, 2025 This article explores landmark judgments on capital gain tax exemptions under Sections 54 and 54F of the Income Tax Act, focusing on investments in residential properties. Section 54F allows exemptions if proceeds from long-term capital assets are invested in purchasing or constructing a house within specific timeframes. Key cases include Viral Rajendra Patel v. PCIT (ITAT Ahmedabad), where purchasing land for house construction was held eligible for exemption despite delays, and Smt. Lekha Reddy Mettu v. ACIT (Hyderabad ITAT), which denied exemption due to prolonged construction delays. Similarly, the Bhaskar Prataparai Shah v. DCIT (ITAT Mumbai) case clarified that a triplex flat constitutes a single residential unit. In contrast, Kamla Ajmera v. PCIT (Delhi High Court) limited exemption to one flat when two non-adjacent units were purchased. Additionally, cases like Siva Jyothi Palam v. ACIT (ITAT Visakhapatnam) and Balraj v. CIT (Delhi High Court) affirmed that registration delays do not invalidate exemptions. These judgments underline the importance of adhering to statutory timelines, proving intent, and understanding the nuances of capital gain exemptions under the law. SIMPLIFIED SUMMARY OF LANDMARK JUDGMENTS. – PART A CAPITAL GAIN TAX EXEMPTION ON INVESTMENT IN RESIDENTIAL PROPERTY 1. The sale and purchase of

immovable property is a common and popular activity in India. As a nation, we have a strong preference for investing in real estate. However, a recurring concern is how to get relief from the significant tax burden on the sale of Capital Assets by investing in real estate.² Sections 54 and 54F of the Income Tax Act provide exemptions on the sale of Long-Term Capital Assets. As per section 54F of the Income Tax Act, if an individual resident sells a Long-Term Capital Asset and invests the sale proceeds in purchasing a residential house within a specified period, the capital gain from the sale will be exempted to the extent of the investment. The specified period for purchasing a house is one year before or two years after the sale of the capital asset. If the individual chooses to invest in constructing a house, the specified period is within three years from the date of sale. ³ To avail of the exemption, certain conditions prescribed in the proviso of the Act must be met i.e. (a) The individual should not own more than one residential house at the time of the sale of the capital asset, excluding the new house being purchased. (b) The individual should not purchase/construct another residential house (apart from the new house for which the exemption is claimed) within one year / three years of the sale etc. Section 54F of the Income Tax Act may appear straightforward at first glance but the majority of litigation in direct tax are for issues related to capital gains exemptions on investment in Residential Property. Every line in Section 54F raises numerous questions, and in most cases, exemptions are denied by the Assessing Officer (AO) initially based on their interpretation. These decisions are often later resolved either in favor of or against the assessee. In this series of articles, an attempt has been made to simplify the Landmark judgments pronounced by various Tribunals and Hon'ble Courts. The summary & references of such case laws and judgments thereof have been discussed in succeeding Paragraphs. Exemption is allowed even if land is purchased (for construction of a new residential house) beyond 2 years from the date of sale of Asset: Mr. Viral sold equity shares of unlisted Company on 05.10.2018 and entered into the purchase deed on 15.10.2020 for purchase of land. He claimed exemption under section 54F on account of the purchase of land for the construction of the residential house and the same was allowed in regular assessment. However, The Principal Commissioner exercised his power under section 263 and noted that the exemption claimed under section 54F by the assessee on account of the purchase of land was wrongly allowed to the assessee since the land had not been found to have been purchased within the prescribed period of two years from the date of transfer of shares. He accordingly held that this claim of deduction under section 54F, on account of the purchase of land, was not in accordance with law and had been wrongly allowed by the Assessing Officer. Mr. Viral appealed to the Tribunal. It was held that the purchase of land by the assessee for the purposes of claiming u/s.54F of the Act was with the intention of constructing of house property for which three years is allowed as per the provisions of law. As per Section 54F of the Act the requirement for claiming deduction was that either construction of a house property should take place within three years from the transfer of an original asset or the purchase of a new house property should happen within two years of the transfer of the original asset. The impugned order of the Principal Commissioner was set aside and exemption under section 54F was allowed to Mr. Viral: ITAT Ahmedabad in the case of Viral Rajendra Patel v. PCIT (2024) ⁷. Assessee should be careful & vigilant in enforcing rights: Mrs. Lekha entered into JDA (Joint Development Agreement) along with other owners on 31.5.2016 for the development of land wherein she was eligible to get one residential villa within 36 months of JDA. Plans were approved on 17.04.2017.

Construction was to be completed within 36 months i.e. by 31.05.2019. However, litigation was filed by partners of developers against each other on 21.10.2021 and construction was completed in November 2023. Mrs. Lekha claimed exemption under section 54F. The Assessing Officer noted that the assessee had not acquired legal title/registered residential house/villa in her name to date while section 54F stipulated that the assessee should purchase a house within two years or construct a new house within three years – Thus, he denied exemption under section 54F to assessee. An appeal was made by Mrs. Lekha in the Hyderabad Tribunal. It was held that dispute among partners of developers arose in 2021 which was beyond the period of 3 years from the date of transfer of capital assets on 31.5.2016 and that, admittedly, there was a delay of more than 7 years in completing construction, no exemption under section 54F could be granted to the the date of transfer of capital assets on 31.5.2016 and that, admittedly, there was a delay of more than 7 years in completing construction, no exemption under section 54F could be granted to the assessee. Furthermore, no evidence had been filed to demonstrate that any serious efforts were made by the assessee to ensure due completion of construction within the time granted by statute. No email or correspondence has been brought to the notice demonstrating that serious efforts were made by the assessee to ensure due completion of the construction within the time granted by the statute. The assessee should be careful and vigilant in enforcing his rights which are missing, in the present case. In light of the above, there is no reason found to interfere with the findings given by the Assessing Officer/DRP, and accordingly both the appeals of the assessee are dismissed. –Hyderabad ITAT in case of Smt. Lekha Reddy Mettu v. ACIT (2024) 8. Triplex Flat consisted of a common living area, kitchen, and several rooms is a single residential unit: Mr. Bhaskar sold certain shares and out of sale proceeds he purchased one triplex flat which consisted of a common living area, common kitchen, and interconnected rooms. The flats were interconnected with a common living room, kitchen, and three rooms and builder modified flats to meet the assessee's needs, and triplex nature of the unit was approved and accepted by the builder. Mr. Bhaskar claimed a deduction under section 54F. AO held that the purchase of multiple flats under one agreement would be ineligible for exemption under section 54F. The Commissioner (Appeals) affirmed the AO's decision, stating that despite internal connectivity, the presence of separate kitchens in each flat and their separate identification in the sale deed precluded them from being considered a single residential unit for the deduction. On the second Appeal to ITAT Mumbai, it was held that section 54F allows an assessee to purchase "a residential deed precluded them from being considered a single residential unit for the deduction. On the second Appeal to ITAT Mumbai, it was held that section 54F allows an assessee to purchase "a residential flat". Therefore, "a" represents one single unit which consists of one living area, "X" number of rooms, and one kitchen. In common parlance, a residential unit consists of a living area, one kitchen, and rooms. The triplex flat purchased by the assessee which has a common living area, common kitchen, and several rooms satisfies the definition of a single residential unit and a unit being singular would be considered a single residential unit and would qualify for exemption: ITAT Mumbai in case of Bhaskar Prataparai Shah v. DCIT (2024). 9. Exemption is available for purchase of one residential house: Ms. Kamla sold a plot of land and used proceeds to purchase two non-adjacent flats since two flats were constructed and situated physically in a manner that it was not possible to combine them and they could not be used as one single dwelling unit even though they were in a same tower of a residential society,

assessee was entitled to exemption under section 54F in respect of only one flat: Delhi High Court in case of Kamla Ajmera v. PCIT (2024). 9.1 Mr. Nakul purchased two adjacent flats and claimed exemption under section 54F, since the revised plan clearly established that said two flats though independently purchased by the assessee were to be used as a single unit, exemption under section 54F could not be denied to the assessee: ITAT MUMBAI in case of Nakul Aggarwal v. ACIT (2024) 10. Delay in registration of property could not be a ground to deny exemption: Mr. Siva sold vacant land in October/November 2016 purchased a house property, and paid the entire sale consideration on 14-11-2016, and possession of the property was also given to the assessee on the same day itself, merely because registration of new house property was delayed or done beyond prescribed time limit on 14-11-2016, and possession of the property was also given to the assessee on the same day itself, merely because registration of new house property was delayed or done beyond prescribed time limit of 24 months from date of disposal of a capital asset, it could not be a ground to deny exemption claimed under section 54F by the assessee: ITAT VISAKHAPATNAM in case of Siva Jyothi Palam v. ACIT (2024). 10.1 Mr. Balraj sold a property on 3-12-1974 for Rs. 98,000. On 6-2-1975, he entered into an agreement to purchase another property for Rs. 2.03 lakhs and paid Rs. 1.73 lakhs at the time of entering into that agreement. The agreement was not registered within the prescribed period of two years from the sale of the property. He would be entitled to the benefit provided under section 54 even though there was no registration within said period: Held by the Delhi High Court in the case of Mr. Balraj v. CIT (2002) Source: Taxguru.in Bharat; Archives Archives Select Month June 2025 May 2025 April 2025 March 2025 February 2025 January 2025 December 2024 November 2024 October 2024 September 2024 August 2024 July 2024 June 2024 May 2024 April 2024 March 2024 February 2024 January 2024 December 2023 November 2023 October 2023 September 2023 August 2023 July 2023 June 2023 May 2023 April 2023 March 2023 February 2023 January 2023 December 2022 November 2022 October 2022 August 2022 July 2022 June 2022 May 2022 April 2022 March 2022 February 2022 January 2022 December 2021 November 2021 October 2021 September 2021 August 2021 July 2021 June 2021 May 2021 April 2021 March 2021 February 2021 January 2021 December 2020 November 2020 October 2020 September 2020 August 2020 July 2020 June 2020 May 2020 April 2020 March 2020 February 2020 January 2020 December 2019 November 2019 October 2019 September 2019 May 2019 April 2019 March 2019 February 2019 January 2019 December 2018 November 2018 October 2018 September 2018 August 2018 July 2018 June 2018 May 2018 April 2018 March 2018 January 2018 November 2017 October 2017 September 2017 July 2017 June 2017 May 2017 April 2017 March 2017 February 2017 January 2017 December 2016 November 2016 October 2016 September 2016 August 2016 July 2016 June 2016 May 2016 April 2016 March 2016 February 2016 January 2016 December 2015 November 2015 October 2015 September 2015 August 2015 July 2015 June 2015 May 2015 April 2015 March 2015 February 2015 January 2015 December 2014 November 2014 October 2014 September 2014 August 2014 July 2014 June 2014 May 2014 April 2014 March 2014 February 2014 May 2013 February 2012 Search Search for: Search Search for: Find Your Home Advance Search is already enabled in the header. 360 Property Management Services Our vision is to provide transparent, efficient and trustworthy residential property management services for your rental property and real estate solutions to Non-Residents who live away from home. We are among the first companies in Chennai and

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