

Reinvestment of proceeds from sale of residential property in India to purchase residential property abroad held eligible for capital gains exemption under section 54

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In brief

Recently, the Chennai Bench of the Income-tax Appellate Tribunal (Tribunal) in the case of **N Ranganathan** held that reinvestment of proceeds from sale of a residential property in India, to purchase a property abroad was eligible for capital gains exemption under section 54 of the Income-tax Act, 1961 (the Act).

In detail

Facts

The taxpayer¹, an individual, sold his residential property that yielded him capital gains. Subsequently, he purchased a residential property in Singapore. The taxpayer submitted his return declaring *nil* income after claiming exemption under section 54 of the Act for reinvestment of capital gains for purchase of a new house. The tax officer (TO) accepted the aforesaid claim under section 54 of the Act. However, the Commissioner of Income-tax (CIT)/ Director of Income-tax (International Taxation) passed an order under section 263 of the Act holding therein that the taxpayer's claim under section 54 of the Act could be allowed only in case of

purchase of new house in India and not abroad. The TO was accordingly directed to frame *de novo* assessment, in consequence of which the taxpayer's claim under section 54 was disallowed as the property purchased was not in India, and capital gains added. The CIT's disallowance was on three grounds –

- a) Consideration paid for the new house was more than the sale proceeds of the residential property in India;
- b) Consideration for the residential property outside India was paid in foreign currency; and
- c) Though the purchase amount was more than the sale proceeds, the taxpayer's bank statement did not provide exact information.

Tribunal's ruling

The Tribunal observed that if the third reason was accepted, it would amount to imposition of a superficial condition for a taxpayer to utilize the very money received as consideration in purchasing the new asset. Section 54 of the Act was a beneficial provision wherein such a condition was nowhere provided for. The Tribunal relied on a recent decision in the case of Vinay Mishra² in holding that claim under section 54 of the Act could not be rejected merely for the reason that the new house purchased is in a foreign country. The taxpayer had also not violated the law by purchasing the new house in Singapore, utilising the consideration on sale of his residential property. The Tribunal also did not agree

¹ N. Ranganathan v. ITO [ITA No. 863/Mds/2014]

² Vinay Mishra v. ACIT [2012] 20 ITR 129 (Bengaluru Tribunal)

that the fact that the consideration was paid in Singaporean dollars merited a disallowance. Accordingly, the Tribunal held that all three of the CIT's grounds were not liable to be affirmed, and held the taxpayer to be entitled to claim exemption under section 54 of the Act *qua* the new house purchased in Singapore.

The takeaway

Benefit under section 54 is also available to taxpayers who have reinvested consideration received on sale of residential property in a residential property outside India.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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