DIRECT TAX
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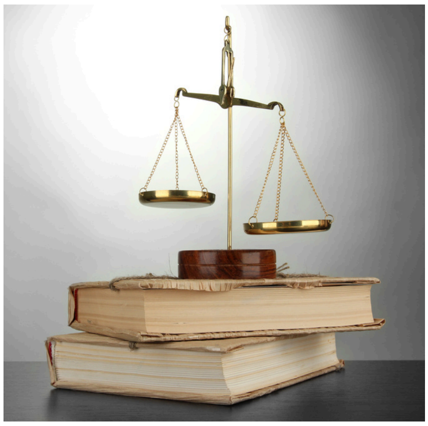
VERENDRA KALRA & CO
CHARTERED ACCOUNTANTS

Exemption under Section 54F to be Allowed Before Set-off; Carry-Forward of Capital Loss Permissible

The Hon’ble Tribunal has held that Scheme of section 45 to 55A provides for computation of capital gains and the effect has to be given first to the provision of capital gains as provided under the said sections and then apply the provisions of section 70. To put it in other words, section 70 would come into the computation of total income only when the capital gains has been computed in accordance with the provisions of section 45 to55A.

Key Facts of the case:

- For Assessment Year 2022-23, the assessee filed his return of income declaring a total income of approximately **INR 49.54 lakh.**
- During the relevant year, the assessee earned **long-term capital gains of about INR 69.84 lakh from the sale of certain equity shares and claimed exemption on the same under section 54F of the Income-tax Act.**

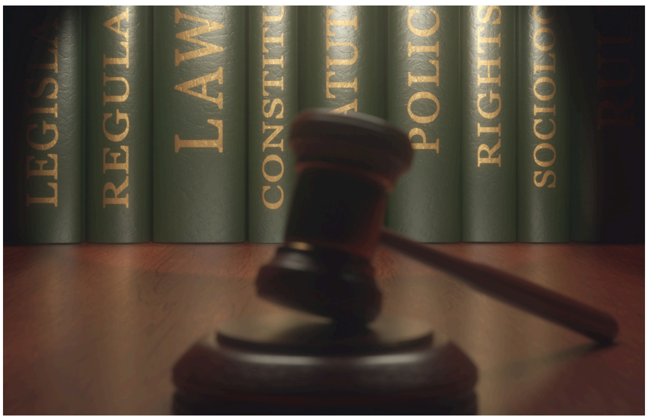


- In the same year, the assessee also suffered **long-term capital losses of around INR 37.72 lakh** from the sale of other equity shares, which were shown in the return and claimed to be carried forward.
- The return was processed by the Centralised Processing Centre (CPC) under **section 143(1),** wherein the carry-forward of the long-term capital loss was not allowed.
- In appeal, the Commissioner (Appeals) held that, as per section 70(3), the long-term capital loss was required to be adjusted first against the long-term capital gain.
- Accordingly, the LTCG of about INR 69.84 lakh was reduced by the LTCL of about INR 37.72 lakh, resulting in a net long-term capital gain of approximately INR 32.11 lakh.
- The exemption under section 54F was restricted to the net amount so computed, and the denial of carry-forward of the long-term capital loss was confirmed.
- Aggrieved by the order of the Commissioner (Appeals), the assessee filed a further appeal before the **Income Tax Appellate Tribunal.**

Judgement (ITAT): The Honorable Tribunal allowed the appeal of the assessee based on the following findings/legal principles

- The Tribunal examined the provisions of the Act and observed that the exemption **under section 54F** is to be applied at the stage of computation of long-term capital gains.
- It was held that the benefit of section 54F cannot be curtailed by first adjusting long-term capital losses under section 70(3) and notes that Section 70, sub-section (3)

mentions that where there is a loss as a result of computation made u/s. 48 to55, assessee is entitled to set off such a loss against income, if any arrived at under similar computation for any other capital asset not being short term capital asset. **Thus, section 70, sub-section (3) will apply once capital gain has been computed as per the provisions of section 48 to 55 wherein exemption available under section 54F is subsumed for the purpose of computation. Accordingly, provisions of section 54Fwill prevail over the provisions of section 70(3).**



- It was noted that nothing in the Act mandates compulsory adjustment of long-term capital loss before granting exemption under section 54F.
- The approach adopted by the CPC and upheld by the CIT(A), of first setting off the loss and thereafter restricting the exemption, was found to be legally incorrect. Accordingly, the assessee was held to be entitled to full exemption under section 54F on the gross long-term capital gains.
- The Tribunal further held that the assessee was also eligible to carry forward the long-term capital loss in accordance with law. The order passed by the CIT(A) was thus set aside, and the appeal of the assessee was allowed in his favour.

Source : ITAT Mumbai (ITA No. 8246/MUM/2025 dated 15.04.2026) in the case of Nikesh Bhagwandas Mehta, Mumbai Vs Income tax Officer, 42(1)(3),Mumbai

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