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Finance Act 1978

Section 10 - Amendment of Section 54

Section 54 of the Income-tax Act shall be renumbered and shall be deemed to have been renumbered with effect from the 1st day of April, 1974, as sub-section (1) thereof and, -

(a) in sub-section (1) as so renumbered, -

(i) after the words "for the purposes of his own or the parents own residence", the brackets and words "(hereafter in this section referred to as the original asset)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974;

(ii) in clause (i), for the words "is greater than the cost of the new asset", the words and brackets "is greater than the cost of the house property so purchased or constructed (hereafter in this section referred to as the new asset)" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1974.

(b) after sub-section (1) as so renumbered, the following sub-Section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1974, namely :-

(2) Where the transfer of the original asset is by way of compulsory acquisition under any law and the compensation awarded for such acquisition is enhanced by any court, tribunal or other authority, then -

(a) so much of the capital gain, computed under section 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of such transfer, as is not excluded under sub-section (1) from being charged to tax under section 45, or

(b) the capital gain attributable to the enhancement of the compensation,

whichever is less (that which is being hereafter in this sub-section referred to as the unadjusted capital gain, shall, if the assessee has within a period of one year before or after the date of receipt of the additional compensation purchased or has within a period of two years after that date constructed, a house property for the purposes of his own residence (hereafter in this sub-section referred to as the relevant asset), be dealt with in the following manner, that is to say, -

(i) if the amount of the unadjusted capital gain is greater than the cost of the relevant asset, the difference between the amount of the unadjusted capital gain and the cost of the relevant asset shall be charged under section 45 as the income of the previous year in which the transfer took place; and for the purpose of computing in respect of the relevant asset any capital gain arising

from its transfer within a period of three years of its purchase or construction, as the case may be, the cost shall be nil; or

(ii) if the amount of the unadjusted capital gain is equal to or less than the cost of the relevant asset, the unadjusted capital gain shall not be charged u/s. 45; and for the purpose of computing in respect of the relevant asset any capital gain arising form its transfer within a period of three years of its purchase or construction as the case may be the cost shall be reduced by the amount of the unadjusted capital gain.

Explanation : For the purposes of this sub-section (2) of section 54B and sub-section (2) of section 54D, -

(1) "additional compensation", in relation to the transfer of any capital asset by way of compulsory acquisition under any law, means the difference between the compensation for the acquisition of such asset as enhanced by any court, tribunal or other authority and the compensation which would have been payable if such enhancement had not been made;

(2) the capital gain attributable to the enhancement by any court, tribunal or other authority of the compensation for the compulsory acquisition of any capital asset shall be -

(a) where the computation of the capital gain u/s. 48 by taking the compensation which would have been payable if such enhancement had not been made as the full value of the consideration received or accruing as a result of the transfer results in a loss or does not result in any profits or gains chargeable to income-tax under the head "Capital gains", the capital gain computed u/s. 48 by taking the compensation as so enhanced as the full value of the consideration received or accruing as a result of the transfer; and

(b) in any other case, the difference between -

(i) the capital gain computed under section 48 by taking the compensation as so enhanced as the full value of the consideration so receiver or accruing, and

(ii) the capital gain computed under section 48 by taking the compensation which would have been payable if such enhancement had not been made as the full value of the consideration so received or accruing..

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