

Stamp duty on property- blues

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Transactions relating to a capital asset, whether land or building or both, often give rise to certain complex problems with regard to determination of their fair value for payment of stamp duty.

What is fair value?

Is it full value of the consideration received or the one that is accruing as a result of such transfer or the market value of the property as on the date of transfer.

Another pertinent question is, who is competent to determine the fair value and in the event of disagreement between the Assessee and the Valuation Authority, what parameters are to be applied to sort out the disagreement.

Section 50-C of IT Act 1961, introduced by Finance Act 2002, seeks to discover the remedies.

1. All transactions after 31.03.2002 will come under this section.
2. It covers all transactions relating to land and building.
3. It does not apply to stock-in-trade transactions. It applies only to transfer of capital asset.
4. This section provides that where the consideration received on Transfer of land or building effected after 31.03.2002 is found to be less than the value adopted by stamp authority for the purpose of levy of stamp duty then the value adopted by the stamp authorities will be deemed to be the full value of the consideration for the purpose of computing capital gain u/s 48 of Income tax act.

But Exemption u/s 54, 54F etc (purchase of another capital asset or reinvestment of capital gain in the prescribed manner) can be availed only with reference to actual sale consideration received by him on transfer of the capital asset. Eg., Sale consideration declared is Rs.50 Lakhs and value adopted by stamp duty authorities is Rs. 60 Lakhs, then one can take advantage under sections 54, 54F etc., only to the extent of actual sale consideration received i.e., Rs. 50 Lakhs only

5. When the actual consideration received and the value as per the stamp authorities is different then the assessee has the following options:
 - i) To dispute the valuation adopted by the registration authorities for stamp duty before any stamp duty authority or court :
 - (a) In this case AO shall assess the capital gain as per the valuation of stamp duty authorities &

(b) If there is any change in FMV(Fair Market Value) as per decision of court then the sale price of the property can be rectified within 4 years from the end of the previous year in which the order revising the value was passed.

ii) Where the assessee is not satisfied with the valuation adopted by the authority and raises objection before the assessee officer:

In this case AO may refer the valuation to the valuation officer. The following situations may arise:

- If the assessee is not satisfied with the valuation by the valuation officer then he can appeal under wealth tax Act.
- If assessee is satisfied with the valuation adopted by the valuation officer then again there can be the following situations:

➤ If value adopted by valuation officer is less than value under stamp duty then AO may adopt the value as adopted by valuation officer.

➤ If value adopted by valuation officer is more than value under stamp duty then the AO has to complete the assessment taking value as adopted by the stamp duty authorities .