

Simultaneous Claim of Interest on Housing loan & HRA; Interest deduction against Capital Gain

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Assessee claim deduction of Interest on Housing Loan to acquire house property u/s 24(b) and simultaneously HRA exemption on rent paid (if he resides in property other than acquired). Further upon sale of said property, interest already claimed as deduction u/s 24(b) can be added to cost of property for the purpose of computing capital gain.

An assessee can claim deduction of Interest on Housing loan taken to acquire a house property u/s 24(b) of the Income Tax Act. Section 10(13A) allows an assessee to claim HRA exemption in respect of rent paid for residential accommodation occupied by him. Further, where expenditure was incurred by way of interest on loan taken to acquire a house property, same shall be allowed to be added to cost for the purpose of computing capital gains upon sale of the said property.

The question under consideration is whether an assessee can claim all the aforementioned benefits together. Or to be more precise, does avilment of one the benefit, precludes assessee from claiming other benefits.

HRA Exemption

Explanation to section 10(13A) provides that HRA exemptions shall be available if both the conditions are satisfied :

- (a) the residential accommodation occupied by the assessee is not owned by him ; and
- (b) the assessee has actually incurred expenditure on payment of rent (by whatever name called) in respect of the residential accommodation occupied by him

Deduction for interest as per Section 24(b):

“where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital:

Provided that in respect of property referred to in sub-section (2) of section 23; the amount of deduction shall not exceed thirty thousand rupees:

Provided further that where the property referred to in the first proviso is acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed within three years from the end of the financial year in which

capital was borrowed, the amount of deduction under this clause shall not exceed one lakh fifty thousand rupees “*

* “two lakh rupees” by Finance Act 2014

Section 23(2) :

Where the property consists of a house or part of a house which—

(a) is in the occupation of the owner for the purposes of his own residence; or

(b) cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, the annual value of such house or part of the house shall be taken to be nil.

Further, ‘at any other place’ mentioned in section 23(2)(b) includes any other place in the same city. Reference is drawn to the decision of Hon’ble **High Court of Delhi in CIT v. Mr. Justice Avadh Behari Rohtagi [1986] 157 ITR 441** wherein it was held that where a person owns a house property in a city and resides at another house in the same city by virtue of his employment, exemption u/s 23(2) of the Income Tax Act, 1961 shall be available in respect of the house owned.

Upon perusal of the aforementioned provisions, it can be concluded that deduction u/s 24(b) and exemption u/s 10(13A) are altogether different. Section 24(b) operates independently of section 10(13A) and none of the two sections exclude the operation of the other. Nothing in the two sections precludes an assessee from claiming benefits under both the sections simultaneously, provided aforementioned conditions are fulfilled. Hence, it can be concluded that an assessee can claim deduction u/s 24(b) in respect of housing loan taken to acquire a house property. At the same time, exemption of HRA u/s 10(13A) can be claimed in respect of rent paid for residential accommodation occupied by him if he resides at a place other than owned by him.

Now the question that remains is “Whether assessee can include interest paid on loan taken to acquire a house property in the cost of the house property despite the same being already claimed as deduction u/s 24(b) in previous years?”

To address this issue, reference is hereby made to the decision of Chennai Bench of the Income Tax Appellate Tribunal in the case of **ACIT v. C. Ramabrahmam (2012) 27 taxmann.com 104** wherein the Tribunal observed the following :

- 1. After perusing the above said provisions, we are of the opinion that deduction under section 24(b) and computation of capital gains under section 48 of the “Act” are altogether covered by different heads of income i.e., income from ‘house property’ and ‘capital gains’.*
- 2. A perusal of both the provisions makes it unambiguous that none of them excludes operative of the other. In other words, a deduction under section 24(b) is claimed when concerned assessee declares income from ‘house property’, whereas, the cost of the same asset is taken into consideration when it is sold and capital gains are*

computed under section 48.

- 3. We do not have even a slightest doubt that the interest in question is indeed an expenditure in acquiring the asset. Since both provisions are altogether different, the assessee in the instant case is certainly entitled to include the interest amount at the time of computing capital gains under section 48 of the "Act".*

Conclusion

Upon consideration of the aforementioned discussion, it can be concluded that an assessee claim deduction of Interest on Housing Loan to acquire house property u/s 24(b) and simultaneously HRA exemption on rent paid (if he resides in property other than acquired). Further upon sale of said property, interest already claimed as deduction u/s 24(b) can be added to cost of property for the purpose of computing capital gain.

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