

CIT Vs. Dempo Co. Ltd. – 387 ITR 354 (2016)

Assessee making capital gains on sale of depreciable assets claimed exemption u/s 54-EC in respect of investments in specified assets.

A.O. rejected the claim on the ground that excess of sale proceeds over WDV of the block is treated as “Deemed Short-term Capital Gains”, whereas, exemption u/s 54-E is available only in respect of capital gains arising out of transfer of long-term capital asset.

Held, that deeming fiction created in 50(1) & (2) of the Act is restricted only to the mode of computation of capital gains contained in sec. 48 & 49. Further, it is well established in law that a fiction created by the legislature has to be confined for the purpose for which it is created. Further Section 50-E doesn't make any distinction between depreciable and non-depreciable asset.

Result: Dept.'s appeal dismissed; Assessee's claim u/s 54-E upheld.