

Capital Gains arising on Sale of Agricultural Land which is not a Capital Asset shall not be chargeable to Income Tax: ITAT

Fact of the Case

- The assessee, Dashratbhai Gopalbhai Patel in its return of income for A.Y. 2012-13 inter alia declared long term capital gains of Rs.1,33,25,071/- on sale of certain land parcels at Adalaj, Gujarat.
- The assessee claimed deduction under s.54B of the Act to the extent of aforesaid long term capital gain by way of purchase of another land at Khoraj for a consideration of Rs.2,11,00,000/-. Consequently, the taxable capital gain was shown at Nil in the return of income.
- While framing the assessment under s.143(3) of the Act, the AO held that the capital gains on sale of agricultural land arising to the assessee falls within the definition of capital asset under s.2(14)(iii) of the Act for the reason that the land parcel giving rise to capital gains is situated in an area which is comprised within the Municipality and such agricultural land falls within the distance not being more 8 kilometers from the local limits of Municipality/Contentment Boards.
- The AO accordingly held that capital gains arising on sale of agricultural land situated within the Municipal limits are not excluded from the definition of 'capital asset' and are thus chargeable to tax.
- Further, the exemption claimed by the assessee under s.54B of the Act to the tune of Rs.2,11,00,000/- was restricted to Rs.20 Lakhs on the basis of actual payments made by the assessee against the agreed consideration.

Decision of the Case

- The coram of Judicial Member, Madhumita Roy and Accountant Member, Pradip Kumar Khedia held that The case of the assessee for exclusion of agricultural land from the definition of 'capital asset' placed in identical factual matrix thus requires to be upheld on this ground alone.
- The Income Tax Appellate Tribunal (ITAT), Ahmedabad held that the Capital gains arising on sale of agricultural land which is not a capital asset shall not be chargeable to Income tax.