

Capital Gains arising on Sale of Rural Agricultural Land outside the purview of Income Tax

FACT OF THE CASE

1. The assessee, Ms. Janki Hitendrakumar Patel in the instant case, had purchased agricultural land parcels situated at Sarkhej in F.Y. 2006-07 relevant to F.Y. 2007-08. The agricultural land parcels at Sarkhej were sold in F.Y. 2008-09 relevant to A.Y. 2009-10. A capital gain of Rs.2,70,88,834/- arose to the assessee on sale of the agricultural land. The assessee, in turn, purchased agricultural land at Sachana, Viramgam (new asset) and claimed deduction being the cost of purchase of agricultural land out of capital gains.
2. It was noticed by the AO that the agricultural land at Sachana (new asset) has been sold within 14 months. The share of consideration (95%) attributable to assessee stands at Rs. 1,73,19,120/-. In these facts, the AO had disputed the eligibility of claim of deduction under section 54B of the Act since it was sold without holding it for three years from the date of purchase in violation of the conditions of Section 54B of the Act.
3. The AO thus brought to tax the whole of sale consideration in question being the year of sale of new assets.
4. The CIT(A) on the basis of documentary evidences, agreed with the plea of the assessee that new asset i.e. land parcel at Sachana (new asset) being a rural agricultural land is not a capital asset as per provision of Section 2(14)(iii) r.w.s. 45B of the Act and consequently, no chargeability arises in the hands of the assessee on sale of such new asset being rural agricultural land.

DECISION OF THE CASE

1. The coram of Judicial Member, Madhumita Roy and Accountant Member, Pradip Kumar Khedia concluded that the agricultural land parcels being situated in the rural area is outside the purview of expression 'capital asset' defined in Section 2(14) of the Act.
2. Consequently, the rural agricultural land in question not being a capital asset is not susceptible to tax under section 45 r.w.s. 48 of the Act. The capital gains arising on sale of rural agricultural land (new asset) is thus outside the purview of taxation at the threshold. We thus see no error in the conclusion drawn by the CIT(A) in favour of the assessee.