

Arbitral award received for release of right to sue due to breach of contract is capital receipt not taxable: ITAT

FACT OF THE CASE

1. Assessee entered into registered agreements to purchase certain agricultural land parcels with original landowners. The assessee paid various amounts to the original landowners as agreed. Later, assessee found that the original landowners had also sold land parcels in question to family members.
2. Original landowners, purchasers and assessee went through various levels of litigations to claim rightful ownership of land parcels. Later, the assessee and original purchasers referred the matter for arbitration to resolve the disputes regarding rightful ownership outside the Court.
3. The original purchasers sold the disputed land, and out of such sale proceeds, a sum of Rs. 70 crores were apportioned to the assessee in consonance with the arbitration award. During assessment proceedings, Assessing Officer (AO) held that compensation for relinquishment for the right to sue is chargeable to tax as capital gains. On appeal, CIT(A) reverse the order of AO. AO filed the instant appeal before the Tribunal.

DECISION OF THE CASE

1. The Tribunal held that the rights of the assessee arising under the sale agreement with the original landowners were frustrated in view of another sale agreement of the same land parcels in favour of the other party. The assessee received certain consideration by way of damages as a culmination of ongoing vexatious dispute towards rightful ownership of land parcels in question.
2. However, the proceedings on the challenge for rightful owner of land before the Court of law continued and had not come to an end. As a result, the right of the assessee to sue the defaulting party was open and subsisting.
3. The compensation received was an off-shoot of the right to sue, an untransferrable right in personam of capital nature. The plea on behalf of the revenue that the assessee had nearly exhausted its right to sue has to be seen from the litigant's point of view.
4. Thus, these receipts towards compensation do not fall within the sweep of expression 'property of any kind' notwithstanding its very wide connotations. Merely because a right towards compensation surfaced as a result of the sale of disputed land would not per se govern its taxability unless such right can be termed a 'capital asset'.