

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH, DEHRADUN**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 2014/Del/2016 : Asstt. Year : 2007-08

Ramesh Chand, S/o Sh. Anand Prakash, Main Bazar, Near Mandir, Bhagwanpur, Roorkee-247667	Vs	ACIT, Haridwar
(APPELLANT)		(RESPONDENT)
PAN No. AUAPC2368R		

Assessee by : Sh. R.K Gupta, Adv.

Revenue by : Sh. N. C. Upadhyay, Sr. DR

Date of Hearing: 17.09.2021

Date of Pronouncement: 22.09.2021
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of the Id. CIT(A), Dehradun dated 27.01.2016.

2. Based on the enquiries made by the Assistant Direct(Inv.), Unit-II, Dehradun that the assessee has earned profit of Rs.71,09,960/- out of sale proceeds of land and that the assessee has not filed return of income for the A.Y. 2007-08, a notice u/s 148 has been issued by the ITO, Ward-2, Roorkee.

3. The only issue is with regard to addition of Rs.71,09,960/- arising out of profit earned by the assessee for sale of two parcels of agricultural land situated at Bhagwanpur District, Roorkee. The AO has made addition on the ground that income resulting from sale of agricultural land is to be charged as income from business which was subsequently confirmed by

the Id. CIT (A) though he held that such land were agricultural land. The relevant facts culled for the adjudication of the issue are that the assessee has purchased 5830 sq. mtr. of land on 25.02.2005 situated at village Lakheswari, Bhagwanpur, Roorkee and sold the same on 04.07.2006. Another parcel of land was purchased on 16.02.2006 and sold on 13.04.2006. No doubt, the assessee made profit @ 1500% to 3800% on these transactions. The AO held that such acquisition and sale of land can be described as a business venture and hence treated the profit as business income. The AO has also held that the land sold was not agricultural land but industrial land at the time of sale.

4. The Id. CIT (A) confirmed the addition made on the grounds that though the asset is an agricultural land since it is purchased with a view of selling it to make huge profit then such profits from the sale of land can be brought to tax as business income as the same could be an adventure in the nature of trade.

5. Heard the arguments of both the parties and perused the material available on record.

6. We find from the record that the land continued to be used for agricultural during the period of position by the assessee. The area has been notified as industrial estate by Department of Industrial Development, Government of Uttarakhand vide order dated 15.12.2005. The notification would not alter the character of the land and doesn't immediately renders it into a capital asset. The land was never converted into non-agricultural by resorting to specific provisions of conversion of land used by the appropriate authorities. The asset has not lost its character of being an agricultural land at the time of purchase as well as at the time of sale. The only reason revenue brought the transaction for taxation is that the assessee has earned huge profits as spelled out in the

order of Id. CIT (A) disregarding the evidence decipherable from the revenue records filed before them.

7. Hence, taking into entire facts of the case into consideration, we hereby hold that the sale proceeds of the said asset is not liable to tax.

8. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 22/09/2021.

Sd/-

(Amit Shukla)
Judicial Member

Dated: 22/09/2021

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR