

**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD
BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.617/Ahd/2024
(Assessment Year: 2017-18)

The Deputy Commissioner of Income Tax, Central Circle2(1), Ahmedabad.	Vs.	Vedprakash Devkinandan Chiripal, 283 Chiripal, New Cloth Market, O/S, Raipur Gate. Ahmedabad-380002. [PAN :AAHPC2102 Q]
(Appellant)	..	(Respondent)
Appellant by :	Shri Rignesh Das, CIT-DR	
Respondent by:	Shri Vartik Chokshi , AR	
Date of Hearing	01.05.2025	
Date of Pronouncement	29.05.2025	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

Delay condoned

This appeal is filed by the Revenue against the appellate order dated 12.12.2023 passed by the Commissioner of Income Tax (Appeals)-12, Ahmedabad, relating to the Assessment Year 2017-18.

2. The Revenue has raised the following grounds of appeals:

1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is correct in deleting the addition on account of short term capital gain of Rs.3,54,83,557/- without considering the observation of AO that the land is to be used for Industrial purpose and are deemed non-agricultural land.

2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) is correct in not appreciating that all the eight pieces of land had been purchased in a very short span and sold after short holding period at an almost three time price, and ignoring the contention of the assessee before the CIT(A) that the crops cultivated was not sold, but used for captive consumption by persons looking after the land.

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3. On the facts and in the circumstances of the case and in law, the Id. CIT(A) ought to have upheld the order of the AO.

4. It is therefore, prayed that the order of the Ld. CIT(A) be set aside and that of the AO be restored to the above extent.

Addition on account of short-term capital gains of Rs. 3,54,83,557/-

3. Pertinent facts relevant for adjudication of the case are that,

The assessee sold 8 pieces of land situated beyond 8 kms of the municipal limits being situated in Dholka, Ahmedabad (6 pieces) and Bidaj, Kheda (2 pieces). The Assessing Officer held that the assessee is a non-agriculturist and he purchased these pieces of land from the original agriculturists at various time within a period of 30 months and then sold to different companies against the fact on record that the assessee is an agriculturist. The details of the same are as under:-

No.	Particular of Land	Block No.	Area Hectares	Date Purchase	Purchase Cos	Date of Sales	Sales Consideration	Profit Amount	Duration (months)
i.	Roopgadh	359/2	1-67-14	04/01/2016	17,73,223	12/07/2016	48,16,000	30,42,777	6.25
ii.	Roopgadh	358	3-21-05	12/02/2016	32,06,751	12/07/2016	91,50,000	59,43,249	4.96
iii.	Roopgadh	352	2-22-58	30/11/2015	23,02,573	21/10/2016	63,45,000	40,42,427	10.72
iv.	Roopgadh	357A-7	1-67-95	10/09/2015	17,21,468	21/10/2016	48,50,000	31,28,532	13.38
v.	Roopgadh	353	2-83-28	30/11/2015	28,84,628	21/10/2016	80,75,000	51,90,372	10.72
vi.	Roopgadh	357A-12	5-20-02	21/08/2015	52,76,416	02/12/2016	145,00,000	92,23,584	15.42
vii.	Bidaj	749	0-10-12	08/01/2025	4,96,570	28/03/2017	12,90,000	7,93,430	26.63
viii.	Bidaj	764	0-50-59	11/09/2015	23,05,814	28/03/2017	64,25,000	41,19,186	18.54
					1,99,67,443		5,54,51,000	3,54,83,557	

3.1 The purchase of these pieces of land have been accepted by the State as the subsequent sales are duly registered. The Assessing Officer held that the assessee has purchased agricultural lands and sold them for a profit and hence the profit earned from sale of non-agricultural land be treated as short-term capital gains.

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The Ld. CIT(A) held that the land sold was agricultural land and hence no capital gains arise. Aggrieved, the Revenue filed appeal before us.

4. Having gone through the entire record and after hearing the arguments of both the parties who relied on the orders of the Ld. CIT(A) and the Assessing Officer to their favour, we find that,

- The assessee purchased agricultural lands registered in his name. This proves that the assessee is an agriculturist though he has not earned any agricultural income in earlier years.
- The land at the time of purchase was agricultural in nature as per the land records.
- The Sale Deeds submitted by the assessee records that the land is agricultural land and the same was subsequently sold for industrial purpose which led to the question whether the agricultural land purchased and sold by the assessee can be treated as non-agricultural in nature and the profits thereof can be taxed or not.
- We find that transfer u/s 63(AA) is conditional and has to be converted into non-agricultural land within 90 days and if not converted, the sale deed automatically gets cancelled.
- Ld. CIT(A) held that at the point of sale by the assessee of the land, the land remained agricultural in nature and it was the purchaser who has to apply for conversion of the land into non-agricultural land before the State Government.
- It also stipulates that failure to convert the land to non-agriculture would lead to cancellation of the sale deed.

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- Thus, it can be found that the assessee has purchased agricultural land and sold agricultural land which has been subsequently converted into non-agricultural land by the purchaser which does not *ipso facto* make the agricultural land sold by the assessee as the non-agricultural land.
 - Hence, we decline to interfere with the well-reasoned order of the Ld. CIT(A).
5. In the result, the appeal of the Revenue is dismissed.

Order is pronounced in the open Court on 29.05.2025

Sd/-

Sd/-

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

Ahmedabad; Dated 29.05.2025

MV/BT

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad