

**IN THE INCOME-TAX APPELLATE TRIBUNAL, SURAT BENCH, SURAT  
BEFORE MS SUCHITRA RAGHUNATH KAMBLE, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**आयकर अपील सं./ITA No.1305/SRT/2024**

**Assessment Year: (2015-16)**

**(Hybrid Hearing)**

Sanjaykumar Arvindbhai Rupareliya L/h Arvindbhai Balubhai Rupareliya,10, Siddharth Township, Varachha Road, Nana Varachha, Surat-395 006	<b>बनाम/ Vs.</b>	Income Tax Officer Ward- 3(1)(2), Surat, Aaykar Bhwan, Majura Gate, Surat -395 001
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No: BPLPR 5511 N</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

निर्धारिती की ओर से /Appellant by	Shri P.M. Jagasheth, CA
राजस्व की ओर से /Respondent by	Shri Ajay Uke, Sr. DR
सुनवाई की तारीख/Date of Hearing	04/06/2025
उद्घोषणा की तारीख/Date of Pronouncement	18/07/2025

**आदेश / ORDER**

**PER BIJAYANANDA PRUSETH, AM:**

This appeal by the assessee emanates from the order passed under section 250 of the Income-tax Act, 1961 (in short, 'the Act'), dated 17.10.2024 by the National Faceless Appeal Centre (NFAC), Delhi/Commissioner of Income-tax (Appeals) [in short 'CIT(A)'] for the Assessment Year (AY) 2015-16, which in turn arises from the assessment order passed by Assessing Officer (in short, 'AO') u/s 143(3) of the Act on 14.11.2017.

2. Grounds of appeal raised by the assessee are as under:

*"1. On the facts and in the circumstances of the case as well as the law on the subject, the Learned Commissioner (A) has erred in the confirming the action of the Assessing Officer in making addition of Rs.38,33,548/- by disallowing deduction u/s 54B of the I.T. Act, 1961.*

*2. On the facts and in the circumstances of the case as well as the law on the subject, the Learned Commissioner(A) has erred in confirming the action of the Assessing Officer in levying interest u/s 234B and 234C.*

*3. It is therefore prayed that the above penalty may please be deleted as learned members of the Tribunal may deem it proper.*

*4. Appellant craves leave to add, alter or delete any ground(s) either before or in the course of the hearing of the appeal.”*

3. Facts of the case in brief are that assessee filed return of income for AY 2015-16 on 16.10.2015 declaring total income at Rs.2,87,540/-. The case was selected for scrutiny and in response to the notices issued by the AO, the assessee filed various submissions and details. The assessee was engaged in the business of construction and he had purchased immovable property with 8 other persons and his share in the purchase of land was Rs.66,27,500/-. The assessee stated that he made payment of Rs.66,27,500/- to purchase land out of the funds received on sale of agricultural land. He claimed deduction of Rs.38,38,548/- against short-term capital gains (STCG) gains arising sale of agricultural land. The AO issued show cause notice stating that the land was purchased by assessee on 29.03.2012 and same was sold on 27.01.2014 by receiving payment against the land sold. However, the land was registered on 23.04.2014. The AO held that the assessee held the land for less than 2 years and that the land was not used for agricultural purposes in the 2 preceding years. Hence, the claim of deduction of Rs.38,38,548/- u/s 54B was not permissible. The same was accordingly added to the total income of assessee. Aggrieved by the addition made by AO, assessee preferred appeal before CIT(A).

4. The appellant contended before CIT(A) that the agricultural land was purchased on 29.03.2012 and was sold on 23.04.2014. Hence, it was held for more than 2 years. The appellant stated that he received the payment for the said land on 27.01.2014 but he had not transferred the right in the property nor given the possession to the buyer till the sale agreement was registered on 23.04.2014. The appellant had also carried out agricultural activities for more than 2 years. Merely on the basis of receipt of payment, it cannot be said that all the right and possession were transferred to the purchaser. The CIT(A) noted that appellant had shown agricultural income during one year i.e., AY 2014-15 only. He has not shown any agricultural income during AY 2013-14. He has also not shown any agricultural income in the subject AY *i.e.*, 2015-16. The appellant could not produce any evidence, such as the crops cultivated, sale bills of agricultural produce etc., during the assessment or appellate proceedings. Though the land was in possession of assessee for 2 years, there was nothing to show that any agricultural activity was carried out by the appellant. Hence, deduction u/s 54B cannot be allowed. The CIT(A) further observed that there was no evidence that the new land purchased was being used for agricultural purposes. In the result, the ground was dismissed by the CIT(A).

5. Aggrieved by the order of CIT(A), the appellant has filed present appeal before the Tribunal. The Ld. AR has filed a paper book including the death certificate of Arvinbhai Balubhai Rupareliya, Form-7/12 of agricultural land

and sale deed dated 27.04.2014 and some case laws. The Ld. AR also submitted copy of certificate for showing sugarcane on agricultural land from Talati-cum-Mantri of the group Gram Panchayat, Bhandora-Aklera, Taluka Choryashi, Dist. Surat dated 10.12.2024 and requested that the above additional evidences may be admitted. The Ld. AR also submitted that the appellant died during the appellate proceedings on 13.04.2021 and, therefore, could not furnish all details before the CIT(A), who passed the order u/s 250 of the Act on 17.10.2024. He requested that one more opportunity may be given to plead its case before CIT(A).

6. On the other hand, Ld. Sr-DR for the Revenue supported order of lower authorities. He submitted that adequate opportunities were granted by the AO and CIT(A) during the assessment and appellant proceedings respectively. Hence, the order of CIT(A) may be upheld.

7. We have heard both the parties and perused the materials on record. We have also deliberated the case law relied on by the Ld. AR of the assessee. There is no dispute that the agricultural land was purchased by appellant on 29.03.2012 and was sold on 27.04.2014 though the appellant started receiving payment against the sold land from 27.01.2014. However, both lower authorities have found that no agricultural activity was conducted by the appellant in the impugned land during the year under consideration. No documentary evidence like details of the crop cultivated, sale bills of agricultural produced etc., were submitted before the lower authorities. The

Ld. AR, on the other hand, submitted that the appellant died during the appellate proceedings and, hence, could not furnish complete details in support of agricultural activity and resultant income therefrom. We are of the considered view that the assessee deserves one more opportunity to contest its case on merit. Considering all the facts and peculiar circumstances of the case, in the interest of justice, we set aside the order of Ld. CIT(A) and remit the matter back to the file CIT(A) with a direction to pass a speaking order in accordance with law after granting adequate opportunity of hearing to assessee. The assessee is directed to be vigilant and diligent and furnish all details and explanation as needed by CIT(A) by not seeking adjournment without valid reason. With this direction, the grounds of appeal raised by the assessee is treated as allowed for statistical purposes.

8. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Order is pronounced under provision of Rule 34 of ITAT Rules, 1963 on 18/07/2025.

**Sd/-**  
**(SUCHITRA R. KAMBLE)**  
**न्यायिक सदस्य/JUDICIAL MEMBER**

**Sd/-**  
**(BIJAYANANDA PRUSETH)**  
**लेखा सदस्य/ACCOUNTANT MEMBER**

सूरत /Surat

दिनांक/ Date: 18/07/2025

Dkp Outsourcing Sr.P.S\*

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त (अपील)/ The CIT(A)
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, सूरत/ DR, ITAT, SURAT
- गार्ड फाईल/ Guard File

By order/आदेश से,

सहायक पंजीकार  
आयकर अपीलीय अधिकरण, सूरत