

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.:707/Chny/2025
निर्धारण वर्ष / Assessment Year: 2017-18

SUDARSANAM, 68/52. Sithivinayagar Koil St., Tambaram Sanatorium, Chennai-600 047.	vs.	The Income-tax Officer, Non-Corporate Ward 22(6), Tambaram.
[PAN:BTWPS-8389-E] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. M. Karunakaran, Advocate
प्रत्यर्थी की ओर से/Respondent by : Ms. Gouthami Manivasagam, JCIT.

सुनवाई की तारीख/Date of Hearing : 30.06.2025
घोषणा की तारीख/Date of Pronouncement : 30.07.2025

आदेश / O R D E R

PER S. R. RAGHUNATHA, AM :

This appeal by the assessee is filed against the order of the learned Commissioner of Income Tax (Appeal), NFAC, Delhi, (in short Ld.CIT(A)) for the assessment year 2017-18, vide order dated 12.02.2025.

2. The assessee's only ground of appeal was that the Id.CIT(A), NFAC, Delhi has erred in confirming the addition of Rs.2,89,70,277/- as long term capital gain when the asset sold is agricultural land which is not a capital asset within the meaning of Section 2(14) of the Income Tax Act, 1961 (in short 'the Act') for the A.Y.2017-18. To support the said ground the assessee raised many grounds which are argumentative and hence not required to be reproduced.

3. The brief facts of the case are that the assessee is an individual, filed his return of income on 07.07.2017 for the A.Y. 2017-18 by declaring a total income of Rs.6,19,440/- and an agriculture income of Rs.2,92,92,930/- towards profit on sale of agricultural land. The case was selected for limited scrutiny assessment under CASS for the reason "agriculture income and capital gains / loss on sale of property". Accordingly, the Assessing Officer (in short 'AO') issued statutory notices to the assessee and the assessee submitted the details from time to time.

4. The assessee along with 3 other family members have sold various agricultural lands situate at Mathur Village, Sriperumbudur Taluk during the previous year relevant to the assessment year 2017-18 and the appellant's share of sale consideration received was Rs.2,92,92,930/-. During the course of assessment proceedings, the assessee was called upon to justify the claim of exemption on sale of agricultural lands. The assessee had submitted that the lands sold are agricultural lands and recorded as such in the Revenue records like chitta and Adangal and in support thereof the assessee had submitted the certificate from the Village Administrative Officer (VAO) and also submitted that the land is located 11.3 km. away from the Sriperumbudur Town and the population of Mathur village was 1,628 as per 2011 census. The assessee therefore submitted that the land sold was a rural agricultural land as per the provisions of the Act and therefore the profit on sale of such agricultural lands is exempt from tax.

5. The AO however did not accept the submissions of the assessee. He has observed that the certificate issued by the VAO dated 03.03.2016 for Fasli No.1425 originally submitted showed that the land was Nanja lands and land revenue was paid but there was no mention about the crop cultivated. However, in the certificate submitted on 16/12/2019, the crop cultivated is shown as :Ner Paiyr (Paddy) and therefore the certificate submitted was fabricated one. He further found that there was no agricultural activities undertaken and no return of income was filed earlier to the assessment year 2017-18. He further observed that the land was sold to M/s.Arun Excello Homes Private Ltd. which is not into agriculture activities. According to AO, no genuine agriculturist would purchase such a land at an exorbitant price. Though the lands are classified as Nanjai Lands, the lands are Banjar lands. The AO had also conducted enquiries through his Inspector who has

reported on 12.12.2019 that no agricultural activities were undertaken by the assessee. After citing some case laws, the AO has concluded that the land sold was not an agricultural land and brought to tax the sum of Rs.2,83,50,837/- after allowing indexed cost of the land of Rs.9,42,093/- as against the sale consideration of Rs.2,92,92,930/- as Long term capital gains by passing an order u/s.143(3) of the Act dated 23.12.2019.

6. On appeal, the Id.CIT(A) confirmed the order of the AO on the very same reasoning given by the AO in the assessment order by passing an order dated 12.02.2025. Aggrieved by the order of the Id.CIT(A) the assessee is in appeal before us.

7. The Id.AR for the assessee submitted that the lower authorities are not justified in bringing to tax the profit on sale of agricultural land by the assessee by denying the exemption claimed by the assessee in the return of income. The Id.AR submitted that the impugned land was purchased by the grandfather of the assessee in the year 1930 and agricultural operations were carried out. In the year 1990, the property was partitioned between the assessee's father and uncle (father's brother). After the demise of the assessee's father, the lands were continued to be used for agricultural activities. Since the lands are not fetching good income to meet the requirements of the family, the assessee and his family members decided to sell the property and accordingly the property was sold to M/s.Arun Excello Homes Private Ltd. during the impugned assessment year. The Id.AR, therefore contended that the lands are continued to be agricultural lands right from the year 1930 and there was no conversion of the land into non-agricultural at any point of time till the date of sale of the land. The land is admittedly classified as "agricultural land" in the Revenue records and land revenue was paid. The land is classified as "Nanja" (Wet) lands in the revenue records. Further, the VAO has certified that Paddy was cultivated in the said lands. The land is not situated within 8 kms from any of the nearest Municipality and the population of the Mathur village is also less than 10,000. The assessee has thus satisfied all the conditions laid down in the Act to show that the lands are agricultural lands only.

8. The Id.AR further submitted that the AO has given more weight to the fact that there was change in the VAO certificate originally issued and subsequently submitted. It may be noted that in both the certificates the land is classified as 'Nanja Lands' only and evidence for payment of land revenue was available. The certificate submitted on 16/12/2019 clearly indicated that Paddy was cultivated. If the AO had any doubt he could have called the VAO to explain the correct facts. When the basic facts in support of the nature of the land sold are very much available in the two certificates issued by the VAO, the AO is not justified in doubting the same and alleging that the same was fabricated.

9. The Id.AR submitted that as per the decision of the Hon'ble Madras High Court in the case of Mrs.Sakunthala Vedachalam (369 ITR 558) it was categorically held that when the land was classified as agricultural land in revenue records as evidenced by the Adangal, the same has to be treated as agricultural land. The Hon'ble High Court further found that prior to the date of sale, it may not be necessary to carry out the agricultural operations. The assessee had submitted Adangal and chitta and in fact the AO himself accepts the fact that in the revenue records the land is classified as agricultural lands. The Id.AR therefore submitted that the AO was not justified in treating the land as capital asset denying the claim of the assessee that the lands sold are agricultural lands and not capital asset within the meaning of section 2(14) of the Act.

10. Further the Id.AR argued that the Authorities below have given much weight to the fact that the lands were purchased by M/s.Arun Excello Homes Private limited, which is a company carrying on the business of real estate. The Id.AR stated that to claim exemption on sale of agricultural land, there is no requirement that the lands should be sold only to an agriculturist. It is now settled law that the purpose for which the buyer of the land is purchasing the property has no relevance to decide the nature of the land on the date of sale. The Id.AR contended that on the date of sale, the land continues to be agricultural land and therefore the subsequent use by the purchaser has no relevance to decide the nature of the land on the date of sale.

11. In this connection, the Id.AR relied on the decision of the Hon'ble jurisdictional High Court in the case of Sri M.S.Srinivasa Naicker and Others (297 ITR 481)

wherein it was held it is not relevant as to how the subsequent purchaser intended to use the land purchased to be put to use to decide as to whether the land was agricultural land or not on the date of sale. The Hon'ble Madras High Court has placed reliance on the earlier decisions in the case of M.Venkatesan Vs.CIT (144 ITR 886) and CIT vs.P.J.Thomas (211 ITR 897) and CWT Vs. E. Udayakumar (284 ITR 511) to hold that the intention of the buyer to use the land purchased cannot determine the fact as to whether the land sold was agricultural land or not on the date of sale.

12. The Id.AR therefore submitted that the observations of the AO that the lands were purchased by the real estate developer and the land is now situated at a developed industrial belt and become townships are not relevant in the light of the settled law laid down by the Hon'ble jurisdictional Madras High Court in the decisions referred supra. The Id.AR further submitted that since the consideration was on higher side, the land cannot be treated as non-agricultural land. Reliance is placed on the decision reported in ABCAUS 3947 (2024) (04) ITAT, wherein the Tribunal has held that land sold cannot be treated as business income when its class not changed from Krishi bhumi and not changed to commercial land. Merely because land was sold at higher price cannot be a base to change the head of income to business income.

13. In view of the foregoing factual and legal submissions, the Ld.AR submitted that the addition of ₹2,84,50,837/- made by the AO under the head 'Long Term Capital Gains' be deleted, and the corresponding exemption be granted, on the ground that the lands in question constitute agricultural lands and do not fall within the definition of 'capital asset' as contemplated u/s.2(14) of the Act.

14. Per contra, the Id.DR for the revenue supported the orders of the lower authorities and prayed for confirming the same by dismissing the appeal of the assessee.

15. We have heard the rival contentions and carefully perused the material available on record and the orders of the lower authorities and the judicial precedents relied on. The only issue before us is whether the land sold by the

assessee constitutes a capital asset within the meaning of section 2(14) of the Act. The assessee an individual has sold the agricultural land along with 3 other family members during the assessment year 2017-18 for a sale consideration of Rs.7,59,75,000/-. Out of which the assessee's share of consideration was Rs.2,92,92,930/-. The assessee filed his return of income by claiming the sale consideration of agricultural land as exempt income under the head agricultural income. In the scrutiny assessment proceedings denied the exemption and brought to tax under the long term capital gain to the tune of Rs.2,83,50,837/- after giving deduction of indexed cost of acquisition treating it as a capital asset u/s.2(14) of the Act. On appeal the same has been confirmed by the Id.CIT(A).

16. We note that Section 2(14)(iii)(b) excludes agricultural land situated in an area beyond 8 km from a municipality and having population of less than 10,000. In the present case the land is situated more than 11 km from the Sriperumbudur municipality and the population of Mathur village is only 1,628. Further, we find that the land is recorded as "Nanja" in both chitta and adangal and land revenue tax has been paid by the assessee and other 3 family members till the date of sale. Further, we note that the VAO has issued certificate that paddy was cultivated in the relevant Fasli year. While the AO doubted the credibility of the VAO certificate based on the timing and addition of crop details, there is no evidence to demonstrate that the certificate was fabricated. The AO did not summon the VAO to verify the certificate, nor did he establish that the land was converted to non-agricultural use before the sale.

17. We find that the AO has also placed undue reliance on the purchaser's identity and intention. It is a settled principle of law, as held in *Sri M.S.Srinivasa Naicker (297 ITR 481)*, that the buyer's intention or subsequent use is irrelevant in determining the nature of the land on the date of sale.

Additionally, the mere fact that the assessee had not shown agricultural income in earlier years does not conclusively prove that no agricultural activity was carried out. Moreover, the assessee was not required to file his return of income for the earlier assessment years, as he had income only from agriculture source which is not liable to tax under the Act. The history of the land, classification in government records, land revenue payment, and cultivation of paddy as per VAO certificate together

establish the agricultural nature of land. Therefore, the arbitrary action of the AO considering the sale consideration of agricultural land as towards sale of capital asset cannot be countenanced. In *Mrs.Sakunthala Vedachalam (369 ITR 558)*, the Hon'ble Madras High Court has categorically held that absence of agricultural income in the year of sale is not fatal when the land is otherwise shown as agricultural in records and not put to any other use.

18. In view of the above reasoning and considering all the facts and circumstances, and in light of binding judicial precedents, we are of the considered view that the land sold by the assessee is rural agricultural land and does not constitute a capital asset under section 2(14)(iii) of the Act. Accordingly, we set aside the orders of the lower authorities and **direct the AO to delete** the addition of Rs.2,83,50,837/- made under the head 'Long Term Capital Gains'.

19. In the result the appeal of the assessee is partly allowed.

Order pronounced in the open court on 30th July, 2025 at Chennai.

(मनु कुमार गिरि)
(**MANU KUMAR GIRI**)
न्यायिक सदस्य/**Judicial Member**

(एस. आर. रघुनाथा)
(**S.R.RAGHUNATHA**)
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,
दिनांक/Dated, the 30th July, 2025

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT– Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF