

आयकरअपीलीयअधिकरण ,“सी”न्यायपीठ,चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL ‘C’ 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 अपीलसं./ITA No.1009/Chny/2025
निर्धारण वर्ष/Assessment Year: 2015-16

Nalini, No. 208, AH-Block, 3 rd Street, Anna Nagar, Chennai 600 040. [PAN: ACOPN7788C]	v.	The Income Tax Officer, Non Corporate Ward 10(3), Chennai.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Shri G. Baskar, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Ms. R. Anita, Addl. CIT
सुनवाई की तारीख/Date of Hearing	:	21.07.2025
घोषणा की तारीख /Date of Pronouncement	:	28.08.2025

आदेश ORDER

PER MANU KUMAR GIRI, JM:

This appeal filed by the assessee is directed against the order dated 30.03.2024 passed by the Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short 'the Ld.CIT(A)'), Delhi, for the Assessment Year (hereinafter in short 'AY') 2015-16.

2. At the outset, the Ld.AR of the assessee brought to our notice that the appeal has been filed belatedly by '312' days and assessee has filed an affidavit explaining the cause for the delay. Having gone through the contents of the same, we find that cause for delay was reasonable, so we excuse the same and proceed to hear the assessee's appeal on merits.

3. The assessee has raised the following grounds of appeal:

1. *The order of the CIT(A) is erroneous as the same is opposed to law and facts and thus liable to be set aside.*
2. *The CIT(A) erred in upholding the addition of the AO without properly considering the submissions filed by the Appellant.*
- 3.1 *The CIT(A) erred in failing to notice that the AO erroneously came to the conclusion that the land sold is not an agricultural land.*
- 3.2 *The AO erred in adopting the Guideline Value (GLV) of the property u/s.50C of the Act without considering the fact that the Fair Market Value (FMV) of the property is much less than the GLV.*
- 4.1 *The CIT(A) erred in failing to delete the addition of Rs.6,61,69,473/-, as the same was made by the AO by arbitrarily adopting the GLV of the property over the FMV.*
- 4.2 *The CIT(A) ought to have seen that the reference to the valuation officer lapsed the day he passed the assessment order and the AO can't make a provisional order to await the valuation report.*
- 4.3 *The CIT(A) erred in upholding the addition towards capital gains to the income of the Appellant. The same is liable to be deleted in full.*
5. *Any other ground/s that may be raised at the time of hearing.*

4. Brief facts of the case are that the assessee is an individual deriving income from house property and business. For the assessment year 2015-16, the assessee filed return of income on 03.02.2017 admitting taxable income of Rs.4,68,670/-. During the relevant previous year, the appellant had sold 4.93 acres of agricultural land situated in Kummangalam Village for a consideration of Rs.1,33,11,000/-. Since the land is situated within Ponneri Town Panchayat, the assessee was advised that she was not liable to Capital gain tax. Accordingly, the appellant did not admit any capital gain.

The return was taken up for scrutiny and the assessee was served with a notice u/s 143(2). In completing the assessment, the AO has taken the view that Town Panchayats having classified as Third Grade Municipalities under Section 3P of the Tamil Nadu District Municipalities Act 1920, the land sold

was required to be considered as a Capital Asset within the meaning of Sec.2(14) (iii) of the IT Act. She also applied the provisions of Sec.50C, as the value of the land sold was adopted at Rs.6,87,82,000/- by the Sub-Registrar for collecting stamp duty. Since the assessee objected to the adoption of the above value for computation of capital, a reference was made to the Valuation Officer on 12-12-2017. However, the report of the Valuation Officer was not received before the conclusion of the assessment. Nevertheless, capital gain was computed by adopting the above value determined by the Sub-Registrar.

As per the website of Commissionerate of Municipal Administration, there are 152 Municipalities of various categories in Tamil Nadu State. Ponneri Town Panchayat is not found in the list displayed in the website, as a Third Grade Municipality. It is one of the Town Panchayats within the geographical limits of Thiruvalluvar District. As per the provisions of Sec.3(29A) of the Tamil Nadu District Municipalities Act 1920, Third Grade Municipality or Town Panchayat is defined as an institution of self government constituted for transitional area as defined in clause (2) of Article 243Q of the Constitution. Formation of Third Grade Municipality is stated in Sec 3B in Chapter 1-A and formation of Town Panchayat is stated in Sec.3P in Chapter 1-B of the Tamil Nadu District Municipalities Act 1920. Therefore, Third Grade Municipality and Town Panchayat are two distinct self government entities and one cannot be equated as the other. Even as per the GO No.55 dated 14-07-2006, reproduced in the assessment order, Ponneri Village Panchayat was notified only as Town Panchayat and not as Third Grade Municipality in terms of Sec.3B of the Tamil Nadu District Municipalities Act. Agricultural land can be treated as a capital asset only if it situated within the jurisdiction of a municipality or equivalent avatars as provided in clause (iii) of Sec.2(14). The Tamil Nadu District Municipalities Act 1920, does not mention that Town Panchayat is on par with a Third Grade Municipality. Since Town Panchayat lacks the attributes of a Municipality, agricultural land within its jurisdiction, is

not hit by the provisions of Sec.2(14)(iii). As a corollary, Sec.50C has also no application.

5. The assessee has made following written submissions before the Id. CIT(A) which reads as under:

I am an individual, assessed to Income Tax under Non-Corporate Ward 10(3) for past few years. For the A.Y.2015-16, my case was selected for scrutiny and the Assessing Officer had completed the assessment determining Total Income of Rs.6,66,38,153/- against the returned income of Rs.4,68,680/-.

The issue involved was Capital Gain on sale of Agricultural land at Kummangalam Village, Ponneri Taluk, Thiruvallur District.

I had sold agricultural land measuring 4.93 Acres in Survey Nos.333/5 & 332/1 for a consideration of Rs. 1,33,11,000/- vide Sale deed dt.08-09-2014.

The Assessing Officer in the assessment, adopted the sale consideration at Rs.6,87,82,000/- based on Guideline value. Against the assessment, I preferred my appeal with CIT(A)-12, Chennai in ITA No. 97/CIT(A)-12/2017-18. The CIT had referred the case to the District Valuation Officer, Chennai. After inspection of the property, the DVO has fixed value of the said property at Rs.2,15,36,600/- in his Valuation Report No.06:2969:07:215.36:601204 dt.23-04-2021. A Copy of valuation report from DVO is enclosed. I request you to take into consideration the DVO's valuation report in disposing off the appeal.

6. However, the Id.CIT(A) upheld the order of AO and dismissed the appeal of the assessee.

Now, assessee is in further appeal before us.

7. Before us the Id. Counsel has submitted the following arguments:

1. *On 08.09.2014, the assessee, by 2 sales deeds, sold agricultural land at Kumangalam Village, Ponneri Taluk, Tiruvallur District for Rs. 1,33,11,000/-.*
 - i. *2 Acres and 63 Cents, with Survey No. 332/1 (measuring 98 Cents) and Survey No. 332/2 (measuring 1 Acre and 65 Cents),*
 - ii. *Total extent of 2 Acres and 30 Cents, with Survey No. 333/5,*

The assessee claimed the resultant Capital Gains from the sale of these agricultural lands as exempt.

2. *The AO has held vide assessment order dated 29.12.2017 that the agricultural land is governed under the Tamil Nadu District Municipalities Act, 1920 as a Town panchayat and held the same to be an urban land, making the capital gains arising from the sale of*

the same taxable. This order was unsuccessfully challenged before the CIT(A), hence the present appeal.

3. Firstly, at page 3 of the assessment order, the AO has extracted the order for reconstitution of Village Panchayats to Town Panchayats. Also, at Page 5 of the assessment order, it is only stated that Ponneri is a Town Panchayat and not that it is a Municipality. The AO in the order of assessment has stated that the Town panchayats are classified as Third grade municipalities u/s.3P of the Tamil Nadu District Municipalities Act, 1920. However, Section 3P of the Act only speaks about the formation of town panchayats and nowhere states that the town panchayats are classified as third-grade municipalities. Thus, the land sold by the appellant is situated only in a town panchayat and not a third-grade municipality 4. Even assuming land in dispute is a third-grade municipality, even third-grade municipalities are not municipality and the same is only a transitional area which is in the process of becoming a municipality. The assertion of the AO that Ponneri was a "Municipality" in 2014 is factually incorrect. The relevant portion of the Tamil Nadu Municipalities Act is extracted below,

3B. Formation of 3 [Third Grade Municipalities] - (1) The Governor, -(a) may, having regard to the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he deems fit, by notification, classify and declare every local area comprising a revenue village or villages or any portion of a revenue village or contiguous portions of two or more revenue villages and having a population estimated at not less than [thirty thousand] as a [Transitional Areal for the purposes of this Act;"]

5. In the present case, the property in dispute is only a Town Panchayat, which is classified as a transitional area, as the same is undergoing a transition from rural to urban area, during the period in which the lands were sold. Thus, the land in dispute is agricultural land for the purpose of the Income Tax Act.
6. Ponneri, located in Thiruvallur District, has undergone several administrative upgrades over the years. It is situated approximately 50 kms from the District Headquarters, Thiruvallur, and about 37 kms from Chennai, the capital of Tamil Nadu, lying in the north western part of the state. The changes undergone over the years are tabulated hereunder;

#	Date	Event
1.	21.02.1952	Ponneri was first upgraded as a Grade II Town Panchayat, vide G.O. No. 2449
2.	Year 1963	It was further upgraded to a Grade I Town Panchayat
3.	24.02.1982	The Town panchayat was elevated to a Selection Grade Town Panchayat, as per the Director of Town Panchayats' letter No. 1953/82

4.	14.07.2006	Ponneri became a Town panchayat under G.O. Ms. No. 55, dated 14.07.2006
5.	Year 2014	Still held Selection Grade status in subsequent years
6.	07.12.2021	Ponneri was upgraded to a Second Grade Municipality, as per G.O. No. 116, dated 07.12.2021
7.	09.12.2021	The Municipality was officially constituted on this date.

7. It is important to consider the fact that the grading of a Town Panchayat, whether Grade II, Grade I, or Selection Grade, does not confer the status of a Municipality. These are internal classifications within the Town Panchayat administrative framework and do not confer Municipal status under the Tamil Nadu District Municipalities Act, 1920. Ponneri was formally upgraded to a Municipality only in December 2021 as per G.O. No. 116 dated 07.12.2021.
8. The grading is used for governance and resource allocation purposes within the Town Panchayat structure and does not alter its fundamental legal character as a non-municipal, rural local body. Therefore, during the A.Y.2015-16, Ponneri remained outside the scope of an "urban area" as defined u/s. 2(14)(iii), and the land in question continued to qualify as rural agricultural land, exempt from capital gains taxation.
9. The distance of the nearby urban local bodies from Ponneri is tabulated hereunder:

Nearby ULB	Type of Governance	Air distance (km)	Road distance (km)	Status in 2014
Gummidipoon di	Town Panchayat	12 km	13-16 km	Town Panchayat
Tiruvallur	Municipality	38 km	53 km	Nearest Municipality
Chennai	Municipal Corporation	35 km	36 km	City Corporation
Avadi	Municipality	30-35 km	35-40 km	Urban Municipality

10. Agricultural Land in Town Panchayat is not a capital asset and the same is distinct from Municipality. Reliance is placed on the following decisions;
- 10.1. In *K. Parameshwaran v. ITO [1982] 2 ITD 371 (Madras)*, the ITAT held that agricultural land situated in a Town Panchayat is not a "capital asset" under Section 2(14)(iii)(a) of the IT Act, and hence not liable to capital gains tax. The Tribunal clarified that Town Panchayats are distinct from Municipalities. It rejected the revenue's argument that Town Panchayats fall under the term "Municipality or by any other name" and emphasized that Panchayats represent rural self-government, not urban governance. Therefore, capital

gains tax could not be levied on agricultural land sold in Musiri, a Town Panchayat.

- 10.2. In *ITO v. P. Venkataramana* [1993] 46 ITD 484 (Hyd.), the ITAT held that agricultural land situated in a Gram Panchayat does not qualify as a "capital asset" u/s. 2(14)(ii)(a) of the IT Act, even if the population exceeds 10,000. The tribunal rejected the AO's view that population alone determines taxability. clarifying that the land must lie within a Municipality, Municipal Corporation, or Cantonment Board with the required population as per the last census.
- 10.3. In *CIT v. P.J. Thomas* [1995] 211 ITR 897 (Madras), the Madras High Court held that agricultural land situated within a Panchayat area but outside the limits of a Municipality is not a "capital asset" u/s. 2(14)(iii) of the IT Act, and hence, not subject to capital gains tax. It rejected the revenue's contention that proximity to urban areas or inclusion within a panchayat transformed the land into a capital asset. The Court emphasized that a Panchayat is not equivalent to a Municipality or Cantonment Board as defined under the IT Act.
- 10.4. In *ITO v. Chandar HUF* [2011] 12 taxmann.com 305 (Chennai), the ITAT held that agricultural land within a Town Panchayat, but outside municipal limits, is not a "capital asset" u/s. 2(14)(iii) of the IT Act.
- 10.5. In *CIT v. P. Mahalakshmi* [2020] 121 taxmann.com 77 (Mad.), the Madras High Court in para 13 held:
- "13. When the correctness of the order of CITA was tested before the Tribunal, once again, the Tribunal made a factual exercise and found that agricultural activities were carried out in the land, there were standing banana crops as well as coconut trees etc., Furthermore, from the revenue records, which were placed before the Tribunal in the form of paper book by the assesses, the Tribunal had recorded a finding of fact that the lands, which was sold were indeed agricultural. Furthermore, it is relevant to note that the lands, which are subject matter of consideration, are situated 40 Kms away from Thiruvallur Municipality and 30 Kms away from Madhavaram Municipality."
11. Since Ponneri was functioning only as a Transitional Grade Town Panchayat and had not yet been notified as a Municipality under the Tamil Nadu District Municipalities Act, 1920, the agricultural land is not a "Capital Asset".
12. In view of the submissions made above, it is prayed that the addition of capital gains made by the AO be deleted in full.

He also referred the following case law Paper Book/citations:

#	Citation	Ratio	Pages
1.	K. Parameshwaran v. ITO [1982] 2 ITD 371 (Mad)	ITAT held that agricultural land situated in a Town Panchayat is not a "capital asset" under Section 2(14)(iii) (a) of the Income-tax Act, 1961, and hence not liable to	1 – 5

		capital gains tax. The Tribunal clarified that Town Panchayats are distinct from Municipalities, as they are governed by the Panchayats Act, not the Municipalities Act. It rejected the revenue's argument that Town Panchayats fall under the term "Municipality or by any other name" and emphasized that Panchayats represent rural self-government, not urban governance. Therefore, capital gains tax could not be levied on agricultural land sold in Musiri, a Town Panchayat.	
2.	ITO v. P.Venkataramana [1993] 46 JTD 484 (Hyd.)	ITAT held that agricultural land situated in a Gram Panchayat does not qualify as a "capital asset" u/s. 2(14)(iii)(a) of the IT Act, even if the population exceeds 10,000. The tribunal rejected the AO's view that population alone determines taxability, clarifying that the land must lie within a Municipality, Municipal Corporation, or Cantonment Board with the required population as per the last census. Since the land in question was situated in Palamaner town, governed by the Panchayats Act and not within municipal limits, capital gains tax was not applicable. The Revenue's appeal was dismissed.	6-10
3.	CIT v. P.J.Thomas [1995] 211 ITR 897 (Madras)	Held that agricultural land situated within a Panchayat area but outside the limits of a municipality is not a "capital asset" u/s. 2(14)(iii) of the IT Act, and hence, not subject to capital gains tax. The Court affirmed the Tribunal's findings based on revenue records, cultivation activity, and the existence of coconut trees and irrigation, all of which established the agricultural character of the land. It rejected the revenue's contention that proximity to urban areas or inclusion within a panchayat transformed the land into a capital asset. The Court emphasized that a Panchayat is not equivalent to a Municipality or Cantonment Board as defined under the Act.	11- 12
4.	ITO v. Chandar HUF [2011] 12 taxmann.com 305 (Chennai)	ITAT held that agricultural land within a Town Panchayat, but outside municipal limits, is not a "capital asset" u/s. 2(14)(iii) of the IT Act, and thus not subject to capital gains tax. The land was cultivated until sale, and the layout permissions obtained earlier were never acted upon.	13-22

5.	CIT Vs. P. Mahalakshmi [2020] 121 taxmann.com 77	The land used by the assessee and family for cultivating banana, coconut, etc., and situated 40 km away from the nearest Municipality, qualifies as "agricultural land" u/s.2(14)(iii) of the IT Act. Although the land had DTCP approval for non-agricultural use, the court noted that actual agricultural activity existed, standing crops were found, and the land remained classified as agricultural in records. The Tribunal and CIT(A) found that the assessee declared agricultural income, paid agri-tax, and even obtained certificates from the Panchayat and VAO confirming ongoing cultivation. Distinguishing the Lalichan and Sarifabibi decisions, the Court upheld the Tribunal's finding that the land retained its agricultural character on the date of sale and thus was not liable for capital gains tax.	23-68
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8. Per contra, the Id.DR, vehemently supported the paras 5.1 to 5.3 of the orders of the Id.CIT(A) and pleaded for the dismissal of the assessee's appeal.

9. We have heard the rival submissions and perused the orders of the authorities below and case law cited at bar. We note that Ponneri Municipality was officially constituted on December 9, 2021, under Government Order No.116 dated December 7, 2021. Before that date, Ponneri held only Town Panchayat status—even as a “Selection Grade” Town Panchayat, it did not have municipal status. Under Section 2(14)(iii) of the Income Tax Act, agricultural land situated within the limits of a Municipality or Municipal Corporation is treated as urban land and thus subject to capital gains taxation. Conversely, land in a Town Panchayat regardless of its grading as Grade II, Grade I, or Selection Grade, does not qualify as a municipality under the law. The grading is purely administrative for internal governance and resource allocations, and does not confer municipal legal status. Thus, in Assessment Year 2015–16, when the land was sold in September 2014, Ponneri was not a municipality. It remained within the rural local body domain, and accordingly, the sale of agricultural land would not be taxable as capital gains. AS referred by the Id. Counsel for the assessee, several below mentioned cases reinforce that agricultural land in a Town Panchayat is not a capital asset under the Income Tax Act:

1. **K. Parameshwaran v. ITO (1982)** – ITAT (Madras) ruled that land in a Town Panchayat is outside the scope of Section 2(14)(iii)(a) and thus not taxable, distinguishing Town Panchayats from municipalities.
2. **ITO v. P. Venkataramana (1993)** – ITAT (Hyderabad) held that even if population thresholds are met, land must be within an actual Municipality or Cantonment Board to qualify.

3. **CIT v. P.J. Thomas (1995)** – Madras High Court reiterated that Panchayats are outside the definition of "Municipality," and proximity to urban areas doesn't change rural land's status.
4. **ITO v. Chandar HUF (2011)** – ITAT (Chennai) reaffirmed that land in a Town Panchayat but outside municipal limits is not a capital asset under Section 2(14)(iii).
5. **CIT v. P. Mahalakshmi (2020)** – Madras High Court found that lands several kilometers from the nearest municipalities retained agricultural character and status, staying exempt from capital gains tax.

10. The Hon'ble jurisdictional High Court in the case of CIT v. P.J.Thomas [1995] 211 ITR 897 (Madras) has authoritatively held as under:

In this tax case petition under section 256(2) of the Income-tax Act, 1961, the Revenue seeks a direction to the Tribunal to refer the following two questions of law, for the opinion of this court:

"1. Whether on the facts and in the circumstances of the case and having regard to the provisions of section 2(14), the Appellate Tribunal was right and had valid materials in upholding the order of the Commissioner of Income-tax (Appeals) that the lands sold by the assessee were agricultural lands and no capital gains arose on the sale of those lands?"

2. Whether the Appellate Tribunal's view that the agricultural lands within the panchayat cannot be regarded as falling within the scope of section 2(14) is reasonable, supported by valid materials and sustainable in law ?"

With reference to the first question, we find that the conclusion arrived at by the Tribunal regarding the character of the land is factual. In arriving at the conclusion that the lands sold by the assessee were only agricultural lands, the Tribunal had taken into account not only the classification of the land in the revenue records as 'garden land' but also the circumstances that the land was under the actual cultivation of the sister of the assessee and it had the benefit of channel irrigation and there were also 42 coconut trees thereon. That apart, the Tribunal had also considered the receipt of agricultural income from the land in question. Based on the aforesaid circumstances, the Tribunal rightly came to the conclusion that the land in question sold by the assessee was agricultural land. Even as regards the second question, it is seen that under section 2(14) of the Income-tax Act, 1961, the exclusion of agricultural land as capital asset, would be applicable to land within the limits of a municipality and not a panchayat. The land sold by the assessee was situate in Koshancherry town and that was only a panchayat. Though learned counsel for the Revenue strenuously contended that a panchayat would also be comprehended within section 2(14) of the Income-tax Act, 1961, we are unable to accept the contention. Section 2(14)(iii) refers to the exclusion as capital asset of agricultural lands situate in an area which is comprised within the jurisdiction of a municipality (whether known as municipality or municipal corporation, notified area committee, town area committee, town committee or by any other name) or a cantonment, which has a population of not less than 10,000 according to the last preceding census. In order that the benefit

of exclusion of agricultural land as capital asset may not be available, the land should be situated within the jurisdiction of a municipality or a cantonment board as stated earlier and is also related to the population. Though the expression, "municipality, municipal corporation, notified area committed town area committee, town committee", etc., have been used they refer only to certain specific entities either known by that name or by any other name and that cannot be taken to apply to a panchayat which is and has also always been understood as distinct and different from municipality, etc. In the absence of clear or specific words in the section to take in a panchayat, we are unable to countenance the argument of learned counsel for the Revenue. We are satisfied that the Tribunal was quite justified in deleting the tax arising on capital gains on account of the sale of the agricultural lands by the assessee. The tax case petition is dismissed. There will be no order as to costs.

11. In the aforesaid case, The Hon'ble High Court held that agricultural land situated within a Panchayat area but outside the limits of a municipality is not a "capital asset" u/s. 2(14)(iii) of the IT Act, and hence, not subject to capital gains tax. The Court affirmed the Tribunal's findings based on revenue records, cultivation activity, and the existence of coconut trees and irrigation, all of which established the agricultural character of the land. It rejected the revenue's contention that proximity to urban areas or inclusion within a panchayat transformed the land into a capital asset. The Court emphasized that a Panchayat is not equivalent to a Municipality or Cantonment Board as defined under the Act.

12. Therefore, we are of the view that the reasoning of the Id.CIT(A) is devoid of merit, hence delete the addition made by the AO.

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

Order pronounced on the 28th day of August, 2025, in Chennai.

Sd/-

(एस.आर.रघुनाथा)

(S. R. RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai, दिनांक/Dated: 28th, August, 2025.

VM/-

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF