



आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1386/PUN/2024

निर्धारण वर्ष / Assessment Year: 2016-17

Vyankatrao Pandurang Patil, Mauli Chambers, Above Mauli Jewellers, Yashwantrao Chavan Complex, Main Road, Latur. Maharashtra – 413512.	V s.	Dy.Commissioner of Income Tax, Circle, Latur.
PAN: ABJPP6387P		
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Pramod S Shingte
Revenue by	Shri Aviyogi Ambadkar–Addl.CIT(DR)
Date of hearing	09/09/2025
Date of pronouncement	14/11/2025

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This appeal is filed by the Assessee against the order of Id.Commissioner of Income Tax(Appeal)[NFAC], passed under section 250 of the Income Tax Act, 1961 for A.Y.2016-17, dated 23.04.2024 emanating from Assessment Order u/s.143(3) of the I.T.Act, dated 28.12.2018. The assessee has raised following grounds of appeal :



“1. On the facts and in the circumstances of the case and in law Lower Authorities have erred in denying the exemption of Rs.1,02,07,144/- being Gross sales proceeds received on sale on agricultural land situated at Gat no.288 of village Chata, thereby bringing the tax at a sum of Rs.71,71,858 as Long-Term Capital Gain by treating the land as non-agricultural land, without giving any justifiable reason, the action needs to be reversed.

2. On the facts and in the circumstances of the case and in law Lower Authorities have erred in disallowing deduction claimed u/s 54B for a sum of Rs.4,75,48,176/-, against the sale of Agricultural land, by rejecting appellant's detailed submission and documentary evidences brought on record. The action is incorrect and not supported by any valid reason, needs to be reversed.

3. On the facts and in the circumstances of the case and in law Lower Authorities have erred in not appreciating the fact that long term capital gain of Rs. 64,57,154 offered in computation of total income is with respect to rural Agricultural land not fitting into definition of Capital Asset as per section 2 (14) of Income Tax Act, therefore your appellant prays for deletion of the same.

Your appellant prays for deletion of entire addition. Your appellant craves for to add, alter amend, modify, delete any or all grounds of appeal before or during the course of hearing”

Submission of Id.AR :

2. Ld.Authorised Representative(Id.AR) for the Assessee filed a paper book containing 424 pages. Ld.AR filed a chart specifying the details of the Lands. Ld.AR submitted that Assessee had



claimed 54B of the Act, for the Agricultural Lands. Ld.AR referred the documents filed in the paper book.

3. Ld.AR submitted that Assessee had sold a Land at Gat No.288, Village Chata, District Latur, Maharashtra. Ld.AR submitted that it is an Agricultural Land outside the Municipal Limits and hence, no capital gain is chargeable. Ld.AR submitted that Latur Municipal Corporation is 25 kms away from impugned Agricultural Land.Ld.AR submitted that therefore, the Land is not a capital asset.

3.1 Ld.AR relied on the following case laws :

- *Hon'ble Bombay High Court in the case of Ashok Chaganlal Thakkar Vs. NFAC & Others of Writ Petition No.3099 of 2022 vide order dated 13.02.2024.*
- *ITAT Mumbai Bench in the case of ACIT Vs. Ashok W. Wewsavkar in ITA No.5147/MUM/2017 for A.Y.2011-12 dated 02.05.2023.*

Submission of ld.DR :

4. Shri Aviyogi Ambadkar - Additional Commissioner of Income Tax on rotation duty as Ld.Departmental Representative(ld.DR) for the Revenue relied on the order of Assessing Officer and ld.CIT(A). Ld.DR submitted that the Google Maps appearing in the paper book



seems to be additional evidence as Assessing Officer has not mentioned about it in the Assessment Order.

Findings & Analysis :

5. We have heard both the parties and perused the records. In this case, it is mentioned in the Assessment Order that Assessee is a Chartered Accountant by profession. Assessee had filed return of income for A.Y.2016-17 on 30.03.2017 electronically, declaring total income of Rs.96,80,020/-.

5.1 It has been observed in the assessment order that assessee sold a land situated at Gat No.288, Village Chata, District Latur, Maharashtra for Rs.2,15,00,000/-. The Assessee has filed copy of registered sale deed dated 28.03.2016 at page no.364 to 375 of the paper book between Abhaysingh Shahurao Kadam and Venakatrao Pandurang Patil. The said sale deed is in Marathi. In the said saledeed, Land is described as 'जिरायती'. The Assessing Officer observed in the assessment order that assessee has filed only 7/12 extract. The Assessing Officer asked Assessee to furnish details of crops grown for the last two years, quantity of agricultural produce, details of expenditure on agriculture etc. Assessee failed to file the



details, hence, Assessing Officer calculated the Capital Gain as under :

<i>Full value of consideration as per section 50C for the purpose of capital gain</i>	<i>Rs.2,15,00,000</i>
<i>Less: Cost of acquisition with indexation (11292856*108/852)</i>	<i>Rs.1,43,28,142</i>
<i>Long Term Capital Gain Chargable</i>	<i>Rs.71,71,858</i>

6. It is also mentioned by the Assessing Officer that during the year, Assessee had earned Long Term Capital Gain of Rs.5,40,05,330/- and claimed deduction u/s.54B of Rs.4,75,48,176/-. The Assessing Officer asked Assessee to submit evidence of Agricultural Activities performed. Assessee failed to submit any evidence, except 7/12 extract. Assessing Officer noted that Assessee had entered into multiple sale and purchase transactions of lands. Therefore, Assessing Officer noted in the Assessment Order that Assessee is not an Agriculturist, but is in the business of land dealing. Assessing Officer disallowed the claim of deduction u/s.54B of the Act. Aggrieved by the Assessment Order, Assessee filed appeal before the Id.CIT(A) who confirmed the Assessment Order.



7. The order of Id.CIT(A) is reproduced here as under :

“1. In ground no.1, the assessee objects to AO treating agricultural land, non agricultural and denying the exemption of Rs. 10207144 and bringing to tax a sum of Rs.7171858 as LTCG. The Land sold was not utilised for agricultural activities and hence the said land cannot be termed as agricultural land. The genuineness of soya bean bill could not be established as the assessee could not furnish the name and address of the commission agent who purchased it, proof of transportation/freight expenses etc. For the detailed reason discussed in para 4 of the assessment order, LTCG of Rs.7171858 computed by the AO is confirmed.

2. In ground no.2 the assessee objects to disallowance of deduction claimed under section 54B. For the detailed reasons discussed by the AO in para 5 of the assessment order, disallowance of deduction u/s 54B is justified and confirmed. The assessee could not furnish any evidence on record proving that the land purchased and sold were used for agricultural purpose immediately in the preceding 2 years.

3. The assessee has further falsely submitted that he has furnished the sale bill in support of his contention however there is no bill submitted by the assessee in respect of the land for which deduction is claimed u/s 54B. It is a very well-known fact that rice is a crop which requires high water requirements but the assessee has not furnished a single electricity bill in support of his stand. Further, despite being given ample opportunities, no evidences in support of the expenses incurred on the rice farming have been furnished by the assessee. The 7/12th extract is the only document on which the assessee has relied upon and no other document has been furnished by the assessee. In absence of other supporting evidences the 7/12th extract cannot be fully relied upon. Further, it is observed that the assessee has entered in multiple



transaction of sale and purchase of the land which creates an impression that the assessee is not an agriculturist but he is in the business of land dealing. Hence for the aforesaid reasons it is found that assessee has failed to substantiate his claim of exemption of Rs.47548176/- u/s 54B. Accordingly the entire claim of deduction u/s 54B of Rs.47548176/- is hereby disallowed and added to the long term capital gain.

4. The appeal filed by the assessee is dismissed.”

8. Section 2(14) of the Income Tax Act, 1961 as applicable for

A.Y.2016-17 is reproduced here as under :

(14) ["capital asset" means—

(a) property of any kind held by an assessee, whether or not connected with his business or profession;

(b)

but does not include—

(i)

(ii)

(iii) agricultural land in India, not being land situate—

(a) in any area which is comprised within the jurisdiction of a municipality (whether known as a municipality, municipal corporation, notified area committee, town area committee, town committee, or by any other name) or a cantonment board and which has a population of not less than ten thousand; or

(b) in any area within the distance, measured aerially,—

(I) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten thousand but not exceeding one lakh; or

(II) not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than one lakh but not exceeding ten lakh; or

(III) not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten lakh.

Explanation.—For the purposes of this sub-clause, "population" means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year;”(emphasis supplied).



8.1 On perusal of the assessment order and Id.CIT(A)'s order, it is observed that nowhere in the orders, the Assessing Officer has referred to the distance of the land from nearest Municipal Council and population of the Area. However, in the paper book from page no.106 to 119 the Assessee has filed a chart showing distance of the land along with copies of the maps showing the aerial distance. The Assessee also filed District Census Handbook from page no.120 to page no.128 of the paper book. Assessee filed Economic Times News Item dated 31.08.2020 regarding water scarcity in Latur District at page no.129-130 of the paper book.

9. These documents were referred by Id.AR during the hearing. We have carefully studied the Assessment Order and Id.CIT(A)'s order, but nowhere the Assessing Officer/Id.CIT(A) has mentioned that Assessee had filed the above referred documents.

10. We have perused the copies of the Letters filed by Assessee during Assessment Proceedings which are at page no.138 and page no.142 of the paper book. The letters do not discuss filing of any maps or population handbook.



11. In these facts and circumstances of the case, we are of the opinion that Assessee had filed certain documents which were not filed during the Assessment Proceedings. Therefore, in the interest of justice, the Assessment Order is set-aside to Assessing Officer for denovo adjudication. Assessee shall file all the documents before the Assessing Officer within Three Effective Hearings. Assessing Officer shall provide opportunity of hearing to the Assessee. Accordingly, Ground No.1, 2 and 3 raised by the Assessee are allowed for statistical purpose.

12. In the result, appeal of the Assessee is allowed for statistical purpose.

Order pronounced in the open Court on 14 November, 2025.

Sd/-

VINAY BHAMORE
JUDICIAL MEMBER

Sd/-

Dr.DIPAK P. RIPOTE
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 14 Nov, 2025/ SGR

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलिय अधिकरण, पुणे/ITAT, Pune.