INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI
BEFORE SHRI C. N. PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITA No. 1839/Del/2024
(Assessment Year:2014-15)

ITO, Ward-1(1), Faridabad	Vs.	Dharam Singh, 604, Sector-14, Faridabad Haryana
(Appellant)		(Respondent)
		PAN: ACTPS5801J

Assessee by :	Shri Vibhor Garg, CA
Revenue by:	Shri Rajesh Kumar Dhanesta, Sr. DR
Date of Hearing	25/11/2025
Date of pronouncement	09/01/2026

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.1839/Del/2024 for AY 2014-15, arises out of the order of the ld National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1061118477(1) dated 19.02.2024 against the order of assessment passed u/s 147 r.w.s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 30.03.2015 by the Assessing Officer, NFAC, Delhi (hereinafter referred to as 'ld. AO').

2. The revenue raised the following grounds of appeal:-

"(i) "Whether, on the facts and circumstances of the case and law, the Ld. CIT(A) was right in law in deleting the addition of Rs. 5,00,16,500/-made by the AD on account of capital gain accruing to the assessee on receipt of full & final payment against sale of urban agriculture land to Triveni Infrastructure Development Co. Ltd. after settlement through Hon'ble High Court?

(ii) Whether, on the facts and circumstances of the case and law, the Ld. CIT(A) has erred in giving relief to the assessee since the assessee has failed to establish that the land is an agricultural land?

(iii) Whether on facts and circumstances of the case, CIT(A) erred in allowing the benefit of exemption u/s 10(37) by treating the amount of Rs 5,00,16,500/- as compensation from Haryana Government even when same was received by the assessee as part of the unpaid sale of the sale agreement dt. 27.04.2006?"

3. We have heard the rival submissions and perused the material available on record. The assessee has filed his return of income for AY 2014-15 on 17.02.2015 declaring total income of Rs. 90,62,720/- comprising salary income of Rs. 6,53,308/- and income from other sources amounting to Rs. 85,19,407/-. The assessee claimed exempt income of Rs. 5,00,16,500/- u/s 10(37) of the Act in the return. The case of the assessee was sought to be reopened u/s 147 of the Act vide issuance of notice u/s 148 of the Act dated 30.03.2021. In response to the said notice, the assessee filed return dated 24.04.2021 declaring the same income of Rs. 90,62,720/-.

4. The assessee is the son and legal heir to Late Smt. Bati Devi. Late Bati Devi sold her land situated at Village Bhatola in Faridabad, Haryana to a company M/s Triveni Infrastructure Development Company Ltd (TIDCL) for industrial purposes for a total consideration of Rs. 6,30,20,625/- on 27.04.2006. Part payment amounting to Rs. 1,30,04,125/- was received by Late Smt Bati Devi and the balance amount of Rs. 5,00,16,500/- remained unpaid by the buyer. However, sale deed and mutation of the land was completed in favour of TIDCL i.e. buyer. Since, the sale consideration was not paid to Late Smt. Bati Devi in full, a legal constraint in the form of civil suit to cancel the sale deed dated 27.04.2006 was activated. The land which was in physical possession of the buyer without payment of full sale consideration, was acquired by Haryana Govt. vide notification No. LAC(F)-2009NTLA/918 dated 06.02.2009 after invoking Section 6 of State Land Acquisition Act. Pursuant to the Civil Suit filed against TIDCL, sale deed was cancelled by the

Court vide decree dated 28.05.2008. The evidence to this effect is enclosed in pages 45 to 46 of the Paper Book.

5. Both the parties entered into a compromise wherein one more opportunity was given to TIDCL to get the cheques of Rs. 5,00,16,500/- cleared with an understanding that if the cheques do not get cleared, the sale deed dated 27.04.2006 shall be deemed to be cancelled. Later on the land was acquired by Haryana Govt as stated above vide Notification dated 06.02.2009. Late Smt Bati Devi filed her objections before Land Acquisition Officer explaining the facts of the transaction with TIDCL and also informed that the compensation of land to be issued to her and not the company. Accordingly, the compensation was not paid to TIDCL and remained with State Land Acquisition Officer. This was done in view of the fact that the mutation of land was not transferred back to Late Bati Devi by that time. The Land Acquisition Officer issued the Award No. 24 dated 04.02.2011. Meanwhile TIDCL went into liquidation and Official Liquidator was appointed, which case was before the Hon'ble Delhi High Court.

6. The legal heir of Late Smt Bati Devi (i.e. Dharam Singh- assessee herein) got relief from Hon'ble Delhi High Court through order dated 28.11.2013 falling in AY 2014-15 wherein, he received Rs. 5,85,16,500/- as full and final settlement towards the sale consideration of the land and interest. This sum was bifurcated into interest of Rs. 85 lakhs which was duly offered to tax by the assessee under the head 'income from other sources' and balance sum of Rs. 5,00,16,500/- was claimed as exempt income u/s 10(37) of the Act in the return.

7. It is pertinent to note that the Official Liquidator of TIDCL in the prayer before the Hon'ble Delhi High Court had accepted that Late Smt Bati Devi is the actual owner of the land and prayed for paying the compensation to be

given to the legal heir of Late Bati Devi and also prayed for deduction of Rs. 1,30,04,125/- received by her as part consideration originally in the year 2006. The evidence in this regard is enclosed in page 71 of the Paper Book. Hence, it is crystal clear that the ownership of the land was only with Late Bati Devi and followed by her son Shri Dharam Singh (assessee herein) post demise of Bati Devi.

8. With regard to claim of exemption u/s 10(37) of the Act in the sum of Rs. 5,00,16,500/-, the ld AO observed that Section 10(37) of the Act deals with income chargeable under the head 'capital gains' arising from transfer of agricultural land. The ld AO observed that the subject mentioned land is ancestral land situated well within the city limits of Faridabad. The Village Bhatola situated in Sector 82 of Faridabad City, is under municipal limits even by 2011 Census and hence would be a capital asset within the meaning of Section 2(14) of the Act. The ld AO also observed that the ancestral land of the assessee was sold for industrial purposes to M/s. TIDCL. The ld AO gave a finding that actual transfer of the land took place in AY 2014-15 after the order of Hon'ble Delhi High Court dated 28.11.2013 and final payment made to assessee pursuant to agreeing to vacate his constraint to the possession of the land and thus, the land was used for industrial purposes as mandated u/s 10(37)(ii) of the Act and accordingly the sale proceeds of Rs. 5,00,16,500/- claimed as exemption by the assessee was brought to tax as chargeable capital gains.

9. We find that it is not the claim of the assessee that the land in question is not a capital asset u/s 2(14)(iii) of the Act. The claim of the assessee is only that the subject mentioned land is an urban agricultural land which was compulsory acquired by Haryana Govt by virtue of land acquisition notification dated 06.02.2009. It was submitted that the land which was sold by the assessee is an urban agricultural land and after the sale/ acquisition as the

case may be, what the buyer does with the land, does not affect the taxability of the land in the hands of the seller. Exemption u/s 10(37) of the Act has been claimed by the assessee because the urban agricultural land owned by the assessee was compulsory acquired by the Haryana Govt. The ld CIT(A) had granted relief to the assessee by observing as under:-

> *"8.1 Having considered the factual matrix of the case, I find that the assessee had claimed the income/receipt on compulsory acquisition of land by the Govt. of Haryana of Rs.5,00,16,500/- as exempt u/s 10(37) of the Act as the land under consideration was an agricultural land as per the records of the land revenue authorities and the same had been acquired by the Haryana government vide notification No. LAC(F)-2009NTLA/918 dated 06.02.2009. It is an undisputed fact that the earlier sale deed for transfer of land to M/s Triveni Infra structure Limited which had failed to make the full payment to the mother of the assessee had been cancelled and the land was restored back to the mother of the assessee, a fact which the Hon'ble High Court of Delhi had accepted and mentioned in the orders in the matter of Dinesh Mittal and otrs Vs Triveni Infrastructure Development Limited. Therefore, the purpose for which the land had been initially purchased by the M/s Triveni Infrastructure Development Limited for industrial or non agricultural use becomes irrelevant as the land deal with the said company was cancelled by the order of the court and the land was actually acquired by none other than the Govt. of Haryana and the assessee was recognized as the lawful owner of the said land as evident from the order of the Hon'ble High Court. Further, the award money was paid to the assessee. Be that as it may, it may be mentioned here that it has been held in a number of cases that the subsequent non agricultural use of land by the purchaser does not alter the agricultural status of land on date of sale as held in the following cases:*
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> *i) M.S.Srinivasa Naicker Vs. ITO (2007) 292 ITR 481 (Mad.)*
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> *ii) CIT Vs.Heenaben Bhadresh Mehta (2018) 96 taxmann.com 164 (Guj.)*
>
> *iii) CIT Vs. Rajshibhai Meramanbhai Odedra (2014) 222 Taxman 72 (Guj.)*
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> *8.2 The year of taxability/exemption of consideration received by the assessee i.e A.Y.2014-15 is not disputed either by the assessee or by the AO. The AO had disallowed the claim of exemption by the assessee u/s.10(37) of the Act merely on the ground that the land under consideration was a capital asset u/s.2(14)(iii) of the Act and it was not an agricultural land under that section. Here, it needs to be pointed out that the AO fell in error by saying that the land under consideration was not agricultural land in as much as the assessee had not claimed the land to be a 'rural agricultural land' as opposed to 'capital asset' as defined u/s.2(14)(iii) of the Act. It was not the assessee's claim that land under consideration qualified to be a rural agricultural and therefore, not a capital asset. The assessee had claimed exemption u/s. 10(37) of the Act which applies to 'urban agricultural lands' only and not to rural agricultural lands as specifically mentioned in section 10(37)(i) of the Act. Now, for the sake of understanding in simple language, it is very important to understand the*

meaning of Rural Agriculture land and Urban Agriculture land as understood from the definition of capital asset being an agricultural land as defined in section 2(14)(iii) of the Act. A land is said to be Rural Agricultural Land:

(a) If situated in any area which is comprised within the jurisdiction of a municipality and its population is less than 10,000, or

(b). If situated outside the limits of the municipality, then situated at a distance measuredi) more than 2 km from the local limits of the municipality and which has a population of more than 10,000 but not exceeding 1,00,000.

ii) more than 6 km from the local limits of the municipality and which has a population of more than 1,00,000 but not exceeding 10,00,000.

iii) more than 8 km from the local limits of the municipality, and has a population of more than 10,00,000.

On the other hand, a land is said to be urban agricultural land which does not fulfill the criteria of Rural agriculture land as mentioned above.

If a land qualifies to be a rural agricultural land, not being a 'capital asset' u/s.2(14)(iii) of the Act, no capital gains is chargeable u/s.45 of the Act. For invoking the provisions of section 45 of the Act, the asset under consideration should be a 'capital asset' unless specifically exempted, like u/s. 10(37) of the Act. If an asset is not a capital asset, then there is no need for the assesse to invoke the provisions of section 10(37) of the Act for claiming exemption as the exemption is available to the assessee anyways as the asset goes outside the purview of section 45 of the Act. The provisions of section 10(37) of the Act are basically applicable to urban agricultural lands as specifically mentioned in section 10(37)(i) of the Act. Further, in the case of Balakrishnan V. Union of India (2017) 80 taxmann.com 84 (SC), the hon'ble Apex court has held that ' Merely because compensation amount is fixed after negotiation between parties , it will not change the character of acquisition from that of compulsory acquisition to voluntary sale and exemption under section 10(37) can not be denied to the assessee'

8.3 In view of the above discussion and respectfully following the judicial precedents as mentioned above, I am of the considered view that the assessee is entitled to claim exemption u/s.10(37) of the Act as the land under consideration was a urban agricultural land and it had been compulsorily acquired by the Haryana Government. Therefore, the action of the AO in charging to tax the income/receipt on compulsory acquisition of land by the Govt. of Haryana of Rs.5,00,16,500/- is not tenable in law. Accordingly, the AO is directed to delete the addition of Rs. 5,00,16,500/- made by him.

Hence, the Grounds of Appeal No.3 to 5 are Allowed."

10. We find that the original sale deed dated 27.04.2006 executed by Late Bati Devi in favour of the TIDCL was cancelled vide decree dated 28.05.2008,

the legal title of the land reverted to Smt Bati Devi and this fact has been accepted by the Official Liquidator of TIDCL in his prayer before Hon'ble Delhi High Court. The land in question was finally acquired by Haryana Govt through land acquisition proceedings and the legal heir of Late Smt. Bati Devi i.e. Dharam Singh- assessee herein, received the compensation for land acquisition from the Haryana Govt. Further the said compensation of land also matches with the balance amount due to be paid to the assessee. We find that the ld CIT(A) had rightly appreciated the facts in question which was duly supported with documentary evidence in the form of decree orders. We find that the ld AO had completely misunderstood the entire prevailing facts ignoring the disputes that were prevailing and ignoring the decree orders. We do not find any infirmity in the order of the ld CIT(A) granting relief to the assessee. Accordingly, grounds raised by the revenue are dismissed.

11. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 09/01/2026.

-Sd/-	-Sd/-
(C. N. PRASAD)	**(M. BALAGANESH)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated: 09/01/2026
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi