

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A', NEW DELHI**

**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE-PRESIDENT
&
SMT. RENU JAUHRI, HON'BLE ACCOUNTANT MEMBER**

ITA No. 6268/DEL/2025; Assessment Year: 2014-15

Shri Vikas Agarwal 1, Akbarpur Mandi Sambhal- 244302 Uttar Pradesh	Vs	ITO Samhal
(APPELLANT)		(RESPONDENT)
PAN No. ACGPY5244A		

Assessee by : Shri Mohd. Saim, Advocate

Department/Revenue by : Shri Ajay Kumar Arora, Sr. DR

Date of Hearing: 12.01.2026	Date of Pronouncement: 12.01.2026
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ORDER

PER RENU JAUHRI :

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals)/ National Faceless Appeal Centre, New Delhi [for short, Ld. CIT (A)/NFAC], u/s 250 of the Income Tax Act (for short, the "Act"), order dated 26.08.2025 in the Appeal No. CIT(A), NFAC/2013-14/10126979.

2. The assessee has raised following grounds of Appeal:

"1. That the Ld. CIT(A)/NFAC erred in applying Section 56(2)(vii)(b) to rural agricultural land which is excluded from 'capital asset' u/s 2(14)(iii).

2. *That the Ld. CIT(A)/NFAC did not distinguish urban and rural agricultural land; the land in question is agricultural in revenue records and located outside notified municipal limits; hence exempt u/s 2(14)(iii).*
3. *That the Ld. CIT(A)/NFAC ought not to have upheld the action of the Assessing Officer in as much as he has not appreciated the facts of the case in its entirety and hence, the impugned addition made by the Assessing Officer is bad in law, illegal and unjustified. ”*

3. Brief facts of the case are that the assessee did not file his return for A.Y. 2015-16. As per information available with the department, the assessee had purchased an immovable property for a consideration of Rs. 11,00,000/- jointly with another person during the year under consideration. The circle rate valuation of the property was Rs. 1,88,98,000/-. Thus, total investment in the property worked out at Rs. 24,46,020/- [purchase consideration of Rs. 11,00,000/- plus stamp duty paid Rs. 13,23,500/-]. Assessee's 1/3rd share worked out to Rs. 8,15,340/-. As the investment of Rs. 8,15,340/- was unexplained since no return had been filed and provisions of section 56(2)(vii)(b) were also applicable, a notice u/s 148 was issued on 30.03.2021. The assessee filed return on 28.05.2021, declaring income of Rs. 4,96,270/- . While source of investment of Rs. 8,15,340/- was verified and accepted during the course of assessment proceedings, Ld. AO, however, invoked the provisions of section 56(2)(vii)(b) to make an addition of Rs. 59,32,667/- to the returned income. Assessment was completed at total income of Rs. 64,28,937/- vide order u/s 147 r.w.s 144B dated 30.03.2022.

3.1 Aggrieved the assessee filed an appeal before the Ld. CIT(A). After considering the assessee's submissions, Ld. CIT(A) rejected his contention that provisions of section 56(2)(vii)(b) would not be applicable in the instant case as agricultural land is not a capital asset. Instead, Ld. CIT(A) observed as under:

“6.3.4 The above provisions thus provides that where an individual receives in any previous year, from any person or persons on or after the 1st day of October, 2009 but before the 1st day of April, 2017, any immovable property for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration shall be income chargeable to tax under the head "Income from other sources".

6.3.5 In the instant case, the appellant has purchased agricultural land having 1.216 Hectares, Khasra No: 298 situated at Village Begumpur, Dist: Sambhal jointly with Mohd Nadeem (2/3rd) & Vikas Agarwal, the appellant ((1/3rd) from Ashok Rawal (Seller) on 24/02/2014. The sale consideration as per the sale deed amounts to Rs 11,00,000 and the stamp duty value of such property as determined by the Stamp duty authority amounts to Rs 1,88,98,000/- and therefore, there is difference to the tune of Rs 1,77,98,000/- between the sale consideration as per the sale deed and the stamp valuation determined by the Stamp Valuation Authority. The appellant's contention is that which he has purchased is agricultural land and the same doesn't fall in the definition of capital asset as per the provisions of Section 2(14) of the Act and provisions of section 56(2)(vii)(b) cannot be invoked. The contention of the AO is that the provisions of Section 56(2)(vii)(b) talks about any immovable property and thus even an agriculture land falls under the definition of an immovable property and the provisions of Section 56(2)(vii)(b) are clearly attracted. On reading of provisions of 56(2)(vii)(b), it refers to any immovable property and the same is not circumscribed or limited to any particular nature of immovable property. It refers to any immovable property which by its grammatical meaning would mean all and any property which is immovable in nature, i.e, attached to or forming part of earth surface. In the instant case, the appellant has purchased agricultural land and such agricultural land is clearly an immovable property. Reliance is placed on the decision

*of the Hon'ble ITAT in the case of **Income Tax Officer, Ward- 2(1), Alwar v. Trilok Chand Sain** wherein it was held that "Whether such agriculture land falls in the definition of capital asset u/s 2(14) or whether such agriculture land is stock-in trade of the assessee, in our considered view, are issues which cannot be read in the definition of "any immovable property" used in context of section Section 56(2)(vii)(b) and are thus not relevant." The case laws relied upon by the appellant are not considered in view of the findings of the decision of the Hon'ble ITAT in the case of Trilok Chand Sain (supra)."*

3.2 With regards to the assessee's second contention that the Ld. AO should have made reference to the DVO to determine fair market value of the land, Ld. CIT(A) observed that no such request was made by the assessee before the Ld. AO. Accordingly, appeal of the assessee was dismissed vide order dated 26.08.2025.

4. Before us, Ld. AR submitted that the Ld. CIT(A) did not consider the documentary evidences filed before him viz the purchase deed, certificate of the Tehsildar regarding location of land (being more than 6 km away from the municipal limits of Sambhal town) and the screenshot of census website (showing town population of less than 10 lakh) which prove that the land in question was an agricultural land eligible to be excluded from the definition of 'Capital Asset' u/s 2(14) and thus outside the purview of section 56(2)(vii)(b) of the Act. These documents have also been filed before us.

4.1 Ld. AR has also placed reliance on the following decisions of the coordinate Benches:

(i) **Mr. Ramnarayan vs ITO 2(3) Badaun** in **ITA No. 767/Del/2024** wherein the Hon'ble Delhi Bench has held that agricultural land is outside the definition of capital asset, therefore, the deeming provisions u/s 56(2)(x) cannot be invoked.

(ii) **Dipti Garg vs ITO Ward Tonk** in **ITA No. 633/JPR/2023** wherein the Hon'ble Jaipur bench, on identical facts, have held that since the asset in question is an agricultural land not falling in the category of capital asset defined in clause (d) to Explanation to section 56(2)(vii)(b) of the Act and, therefore, section 56(2)(vii)(b) cannot be invoked.

4.2 On the other hand, Ld. DR has strongly relied on the orders of the lower authorities. He has argued that in section 56(2), Explanation (d) defines 'property' and includes 'immovable property being land or building or both' without making an exception for agricultural land.

5. We have heard the rival submissions and carefully perused the material placed on record and relevant provisions of section 2(14) & section 56 of the Act. We note that section 2(14) excludes following agricultural land from the definition of capital asset.

"Section 2(14) "capital asset" means

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but does not include—

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(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) *****

(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) ***** ”

Further, under Section 56(vii)(b) the immovable property which is covered, is clarified in Explanation (d) which reads as under:

“ *Section 56(vii)*

Explanation (d) "property" means the following capital asset of the assessee, namely:—

- (i) *immovable property being land or building or both,*
- (ii) *shares and securities;*
- (iii) *jewellery;*
- (iv) *archaeological collections;*
- (v) *drawings;*
- (vi) *paintings;*
- (vii) *sculptures;*
- (viii) *any work of art; or*
- (ix) *bullion; ”*

Thus, we are of the considered view that since agricultural land is excluded from the definition of capital asset in section 2(14), it remains outside the scope of section 56(2)(vii)(b) of the Act.

5.2 Admittedly, in the instant case, the land in question is located beyond 6 kms from the municipal limits of Sambhal town as per the certificate of the Tehsildar dated 21.11.2022 and the population of Sambhal as per last census is also below 10 lakhs, in view of screenshot of the Census website filed before us. We, therefore, hold that the same is an agricultural land eligible to be excluded from the definition of 'Capital Asset' under section 2(14) of the Act. In view of these facts, provisions of section 56(2)(vii)(b) in the light of Explanation (d) are not applicable in respect of impugned transaction. Hence addition of Rs. 59,32,667/- made u/s 56(2)(vii)(b) by the Ld. AO is, hereby, deleted.

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

Order pronounced in the Open Court on 12-01-2026.

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(RENU JAUHRI)
ACCOUNTANT MEMBER

Dated: 28.01.2026

Pooja Mittal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi