

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ "डी", अहमदाबाद ।  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"D" BENCH, AHMEDABAD

श्री संजय गर्ग, न्यायिक सदस्य एवं  
अन्नपूर्णा गुप्ता, लेखा सदस्य के समक्ष।

Before Shri Sanjay Garg, Judicial Member And  
Annapurna Gupta, Accountant Member

आयकर अपील सं/ITA No.921/Ahd/2025  
निर्धारण वर्ष/Asst.Year 2013-14

The ACIT Central Circle-1(3), Ahmedabad - 380 014	बनाम/ v/s.	Krupesh Jayantilal Patel 1, Someshwar Complex Nr. Shyamal Row House Satellite Road Ahmedabad - 380 015 PAN : ACKPP 6963 B
अपीलार्थी/ (Appellant)	..	प्रत्यर्थी/ (Respondent)

AND

Cross Objection No.66Ahd/2025 - निर्धारण वर्ष /AY 2013-14  
(in ITA No.921/Ahd/2025 - AY 2013-14)

Krupesh Jayantilal Patel 1, Someshwar Complex Nr. Shyamal Row House Satellite Road Ahmedabad - 380 015 PAN : ACKPP 6963 B	v/s.	The ACIT Central Circle-1(3), Ahmedabad - 380 014
(Cross Objector)	..	(Respondent)

Assessee by :	Shri Dhrunal Bhatt, AR
Revenue by :	Shri Kakoli Uttam Ghosh, Sr.DR

सुनवाई की तारीख/Date of Hearing : 17/12/2026  
घोषणा की तारीख /Date of Pronouncement: 30/01/2026

आदेश/ORDER

Per Sanjay Garg, Judicial Member:

The present appeal by the Revenue and the corresponding Cross Objection by the assessee have been directed against the order of the Learned

Commissioner of Income Tax (Appeals)-11, Ahmedabad [hereinafter referred to as 'CIT(A)'], dated 21/02/2025, passed u/s.250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the Assessment Year (AY) 2013-14.

2. The short issue involved in the appeal of the Revenue is as to whether the land sold by the assessee falls in the definition of agricultural land being not capital assets as defined u/s.2(14) of the Act.

3. At the outset, the Ld. Counsel for the assessee has drawn our attention to two separate orders of the Co-ordinate Benches of this Tribunal. The first order is passed in ITA No.1794/Ahd/2017 in the case of ITO vs. Shri Kaushalkumar Gangaram Patel, dated 17/06/2019, and the second order is passed in ITA No.899/Ahd/2025 in the case of ACIT vs. Rakeshkumar Jayantilal Patel, dated 11/08/2025, wherein, in respect of the same transaction of sale in the case of the joint-owners, the identical issue has been deliberated upon by the Co-ordinate Benches of the Tribunal and has finally been decided in favour of the assessee holding that the land in question sold by the assessee along with joint-owners was an agricultural land not falling in the definition of capital assets as definition u/s.2(14) of the Act. The relevant part of the order of the Tribunal in the case of ITO vs. Shri Kaushalkumar(supra) is reproduced as under:

*"7. We have gone through the impugned order and heard both the parties. Undisputedly land is situated at village Adalaj Revenue district Gandhinagar and land in question is 5 KM outside the radius of Gandhinagar Municipal Corporation and we draw support from the letter issued by the Gandhinagar Urban Development Authority Junior Town Planning Officer who has specifically mentioned that land in question is situated outside 5Km radius*

of Gandhinagar Municipal Corporation vide letter No. GUDA/Tech/692/2015 letter dated 08.02.2016.

8. We have also gone through the Notification No. 9447 dated 06.01.1994 issued by the Govt. of Gujarat wherein it is mentioned that Adalaj (CT) (Guj, population: 9776, Class-V) and municipal limit is area up to a distance of 4 KM from the Municipal limits in all direction whereas land in question is outside the 5 KM radius of Gandhinagar Municipal Corporation and as per Section 2(14)(iii)(a) capital asset means property of any kind hold by an assessee, whether or not connected with his business or profession and agricultural land in Indian, not being land situate (a) in any area which comprised within the jurisdiction of a municipality (whether known as 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 not less than 10,000.

9. In this case, agricultural land in question is situated beyond 5Km radius of Gandhinagar Municipal Corporation and in our considered opinion, same is agricultural land which is not a capital asset as per Income Tax Act. Therefore, we are not inclined to interfere in the order passed by the Id. CIT(A). Thus, we dismiss this ground of appeal of the Revenue."

4. In view of this, there is no merit in the appeal of the Revenue and the same is, accordingly, dismissed.

**Assessee's CO No.66/Ahd/2025 (in ITA No.921/Ahd/2024 for AY 2013-14)**

5. In his Cross Objections, the assessee has raised the issue of validity of the reopening of the assessment.

6. The Ld. Counsel for the assessee has stated at bar that as per the instruction of his client, he does not want to press the Cross Objections and, hence, the Cross Objections are dismissed as not pressed.

7. In the result, the appeal of the Revenue and the Cross Objections filed by the assessee are dismissed.

**Order pronounced in the Open Court on 30/01/2026.**

**Sd/-  
(Annapurna Gupta )  
Accountant Member**

**Sd/-  
( Sanjay Garg)  
Judicial Member**

अहमदाबाद/Ahmedabad, दिनांक/Dated 30/01/2026

*टी. सी. नायर, व. नि. स. / T.C. NAIR, Sr. PS*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-1, Ahmedabad
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण , अहमदाबाद/DR, ITAT, Ahmedabad.
6. गार्ड फाईल /Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

सहायक पंजीकार (Asstt. Registrar)  
आयकर अपीलीय अधिकरण, ITAT, Ahmedabad