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Sale of agricultural land located beyond municipal limits is not taxable as capital gains, Section 50C does not apply on sale of Rural agricultural land, and any alleged on-money from the same transaction cannot be taxed separately as unexplained income

Facts of the case

The **Appellant (Jignesh Harshadbhai Patel),** an individual, filed return for AY 2019–20 declaring income of INR 1.13 lakh and was a 1/3rd co-owner of land sold at Village Dholi. The case was reopened under section 147 based on information alleging receipt of unaccounted cash of INR 22.08 lakh (being share in total alleged cash of INR 66.25 lakh). The assessee contended that the land was agricultural, situated beyond municipal limits, and no cash was received, supported by documentary evidence. However, the Assessing Officer treated the land as a capital asset, invoked section 50C based on stamp duty valuation, and added long-term capital gain of INR 44.21 lakh along with unexplained cash under section 69A. The CIT(A) upheld the additions ex-parte due to non-representation, and the assessee appealed before the Tribunal.

Contention of the Appellant/Defendants (Jignesh Harshadbhai Patel)

- The appellant argues that the CIT(A) wrongly confirmed the addition of INR 44.21 lakh as long-term capital gain even though the land sold was agricultural land and not a capital asset under section 2(14), so such tax should not have been applied.
- The CIT(A) has made a mistake in law and facts by upholding the use of Section 50C based on reverse calculation of the jantri/Stamp duty value.
- The CIT(A) has wrongly confirmed the addition of INR 22,08,333 under Section 69A as alleged cash receipts without any supporting evidence. The decision is based only on third-party statements and material that was neither shared nor subjected to cross-examination and no opportunity for cross-examination was given, which is unfair.

Ruling of the Tribunal court (authority below the HC):

The Tribunal held that as under:

- The records show that the assessee and co-owners sold land at Village Dholi to a company. The Assessing Officer treated the land as non-agricultural mainly because the buyer was a company and based on stamp duty value, and taxed it as capital gains. However, the documents like land records, certificate, and evidence of crops clearly show that the land was agricultural and located outside municipal limits. Even in co-owners' cases, the Department accepted it as agricultural land. The nature of land should be seen on the date of sale, and selling it to a company or its future use does not change its character, so it should not be treated as a capital asset. The bench relied on the Ahmedabad ITAT decision in the case of Rasilaben Yogeshbhai Patel v. ITO [IT Appeal No.631(Ahd) of 2019, dated 7-10-2022] wherein the Coordinate Bench

held that- ***'Therefore, in our considered view when, the long-term capital gain and exemption claimed by the co-owner has been accepted, then the assessee cannot be treated indifferently. '***

Considering all the facts and evidence like the Talati Certificate (Village Revenue Officer), 7/12 extracts, crop details, Google Map, and the fact that co-owners' cases were accepted, it is held that the land was agricultural and not a capital asset under section 2(14). Therefore, no capital gains tax is payable, and the addition of INR 44,21,768 made by the Assessing Officer is deleted.

- The Assessing Officer applied section 50C and increased the sale value based on stamp duty valuation, which led to higher capital gains tax. However, this was found to be incorrect. Section 50C applies only when the asset sold is a "capital asset." **In this case, the land was agricultural land and not considered a capital asset under the law, so section 50C could not be applied.** Also, the stamp value was taken indirectly without proper confirmation, and it was higher mainly because the buyer planned to use the land for industrial purposes, which does not change its nature under income tax law. Additionally, no such addition was made in the case of other co-owners involved in the same transaction. Therefore, the use of section 50C was invalid, and the added income was ordered to be removed.

- For ground no. 5, the bench held that since it was already **decided that the land sold was agricultural land and not a capital asset, any income from its sale, whether declared or received as 'On-money' is not taxable. Both are from the same agricultural land sale, which is tax-free.** The bench relied on the decision of Coordinate Bench of Delhi Tribunal in case of ACIT v. Kamlesh Kumar Rathi [ITA Nos.822 & 823/Del/2018, dated 16-5-2023] has categorically held as under:

  'Once, nature and character of land sold is established as agricultural land not to be treated as capital asset u/s. 2(14)(iii) of the Act, any income arising out of sale of such land -whether by way of declared sale consideration or on account of on-money, would partake the character of exempt income, as the source of both the declared sale consideration and the on-money received is the same, viz., sale of agricultural land.'

  The Tribunal further held:

  'That being the factual position, the income derived from sale of agricultural land, which is not a capital asset, cannot be made taxable.'

  Therefore, Tribunal held that there was no reason to tax INR 22,08,333 treated as unaccounted cash (on-money) amount separately, and the addition was deleted.

Source : ITAT Ahmedabad in the case of Jignesh Harshadbhai Patel (Appellant) vs ITO vide Appeal No. 1655 of 2025 on May 15, 2026.

VERENDRA KALRA & CO LLP
CHARTERED ACCOUNTANTS

Contact Details

3rd Floor, MJ Tower,
55, Rajpur Road,
Dehradun - 248001
T: +91.135.2743283, +91.135.2747084
E: info@vkalra.com
W:www.vkalra.com

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Become a VKC Insight subscriber by mailing us at kmt@vkalra.com

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