

## Gain arising on sale of agricultural land as per revenue records couldn't be brought to tax

**Summary – The High Court of Madras in a recent case of Ashok Kumar Rathi, (the Assessee) held that where land sold by assessee was entered as agricultural land in revenue records and, moreover, Assessing Officer had accepted agricultural income declared from land in question, capital gain arising from sale of it could not be brought to tax**

### Facts

- During relevant year, assessee sold a piece of land. The assessee claimed that the capital gains arising on the sale of the land was exempt on the ground that it was a case of sale of agricultural land.
- The said claim of exemption of the profit on sale was not accepted by the Assessing Officer for the reason that the assessee had not adduced any evidence for carrying out agricultural activities on said land. Further, the Assessing Officer held that the assessee had purchased the land on 11-9-2007 for Rs. 1.97 crores and within a short span of two years, sold the same for Rs. 5.3 crores, which clearly indicated the intention of the purchaser to buy the land at such huge cost and certainly not to carry out agricultural operations.
- In appellate proceedings, the assessee Pointed out that the land was located approximately 15 km. by road from a place which was the nearest panchayat limit. That apart, the village in which the lands was situated, had a population of 3000 and the revenue records, showed that the land was an agricultural land and the sale deed which was executed also mentioned the land as agricultural land and the lands were not converted by the assessee for non-agricultural purpose before the competent authorities. On said facts, the Tribunal held in favour of the assessee and allowed the appeal.
- On revenue's appeal:

### Held

- The fact that the land is entered as agricultural land in the revenue records and is assessed as such under the Land Revenue Code would be a circumstance in favour of conclusion that it is an agricultural land. It was pointed out that this would raise only a *prima facie* presumption and the said presumption can be destroyed by other circumstances pointed to the contrary conclusion. The presumption that if the land is recorded as agricultural land in the revenue records, it would only enure in favour of the assessee and the onus to dislodge the said presumption is on the revenue.
- In the instant case, apart from the revenue records classifying the land as agricultural land, the Assessing Officer accepted the agricultural income declared from the said property for the assessment year 2010-11 and completed the assessment. Merely because the property fetched an income of only Rs. 6,300 during the relevant assessment year is not a ground to discredit the

assessment by itself, which has determined the character of the land to be agricultural land. Thus, the entire issue is purely factual and no substantial question of law arises for consideration in the appeal.

- Accordingly, this tax case appeal is dismissed.