

No sec. 54B exemption if new agricultural land was purchased prior to sale of old agriculture land

Summary – The Jaipur ITAT in a recent case of Mathur Lal, (the Assessee) held that where assessee purchased a piece of agricultural land prior to sale of agricultural land owned by him, assessee's claim for deduction under section 54B in respect of land so purchased was to be rejected

Where assessee incurred certain expenditure on levelling of agricultural land for purpose of irrigation from canal, benefit of indexed cost of improvement was to be granted in respect of said expenditure while computing capital gain arising from sale of said piece of agricultural land

While computing deduction under section 54B, stamp duty paid by assessee was to be considered as part of cost of purchase of agricultural land

Facts

- The assessee initially entered into an agreement to sell his agricultural land on 29-12-2011 and received a part of sale consideration.
- Subsequently, another agreement was executed for sale of said land on 11-6-2013 and therefore, the first agreement was no more in existence. Ultimately, second agreement culmination in execution of sale deed on 22-9-2015.
- The assessee filed his return claiming deduction under section 54B in respect of agricultural land purchased in year 2012.
- The revenue authorities rejected assessee's claim holding that deduction under section 54B was allowable only in respect of the agricultural land purchased after the sale of existing agricultural land.
- On second appeal:

Held

- The provisions of section 54B of the Act set out the conditions for allowing the deduction in respect of the capital gain arising from transfer of agricultural land if the assessee has purchased within a period of two years, any other land for being used for agricultural purposes.
- Thus, the provisions envisaged the benefit of deduction when the capital gain arising from the transfer of agricultural land is used for purchase of another agricultural land within a period of two years after the date of transfer. The Legislature has not intended to allow the claim in respect of the land purchased prior to such transfer as in the case of deduction under sections 54 and 54F of the Act. Thus, the beneficiary provision has to be construed and interpreted strictly so far as the primary condition for eligibility to be satisfied though the other ancillary and procedural conditions regarding keeping the fund in the capital gain account scheme before due date of furnishing return of income

can be construed liberally once the primary condition for eligibility of the deduction is satisfied. Even otherwise the assessee initially entered into an agreement to sell on 29-12-2011 and thereafter another agreement was entered into by the assessee on 11-6-2013, therefore, the first agreement was no more in existence when the parties have entered into a second agreement which has ultimately culminated in execution of sale deed on 22-9-2015. It is not the case that the first agreement dated 29-12-2011 was the basis of the execution of sale deed.

- Even otherwise the assessee has declared the transfer of the land in question for the year under consideration and not in the year relevant to the first agreement dated 29-12-2011. Therefore, if the contention of the assessee is accepted then the transfer itself would take place from the date of first agreement and the entire case has to be reversed back. Thus, having regard to the facts and circumstances of the case when the assessee himself has declared the transfer of the land in question *vide* agreement dated 11-6-2013 then the earlier agreement dated 29-12-2011 cannot be considered as a relevant document for the purpose of transfer of the land in question. There is no dispute that the land for Rs. 7.00 lacs was purchased by the assessee *vide* agreement dated 16-5-2012 which is prior to the sale declared by the assessee *vide* agreement dated 11-6-2013. Consequently, the said purchase prior to the sale of the existing land would not be allowable for deduction under section 54B of the Act.