

## In order to classify land as rural agricultural land, distance from the metropolitan area is not relevant

**Summary – The Kolkata ITAT in a recent case of Naiyer Sultan, (the Assessee) held that in order to classify land as rural agricultural land, distance from the metropolitan area is not relevant**

### Facts

- The assesseees were the co-owners of two pieces of land and sold the said property. The gain arising from the said sale was claimed to be exempt by both the assesseees on the ground that the land was a rural agricultural land. The claims made by the assesseees was accepted by tax authorities during initial assessment.
- Subsequently certain information was received by the Assessing Officer from DDIT (Inv.) that the said land had to be treated as urban land as the area of Chennai Metropolitan Area was much larger than what was stated earlier and was situated at about 3 kms. from the Chennai Metropolitan Area. Thereafter, the assessment was completed under section 147/143(3) in case of the assessee's denying them the exemption and bringing to tax such gain as long-term capital gain.
- On appeal, the Commissioner (Appeals) also upheld the order passed by the Assessing Officer.
- On second appeal:

### Held

- The ITAT stated that it was rightly contended by the assesseees that the location of the land from the local limits of Chennai Municipal Corporation was relevant to decide as to whether the said land was an agricultural land within the meaning of clause (iii) of sub-section (14) of section 2 and the distance of the land from the Chennai Metropolitan area was not relevant in this context.
- The assessments completed originally in case of both the assesseees were reopened by the Assessing Officer on the basis of irrelevant information to record it as a reason to believe that that the land sold by the assesseees was not an agricultural land within the meaning of section 2(14)(iii) and that the gain was chargeable to tax. The Assessing officer failed to satisfy the requirements of section 147 and the initiation of reassessment proceedings without satisfying this mandatory requirement was bad-in-law. Hence the assessments completed by the Assessing Officer under section 147/143(3) in case of both the assesseees are liable to be cancelled being bad-in-law.