No Capital Gains on Agricultural Land u/s 2(14) even incase the land is not used for earning agricultural income and is sold after purchasing [Sec 2(14) of ITA'61 – Sec 2(22) of ITA'25]

By: Vivek Jalan

FCA, LL.M (Constitutional Law), LL. B, MBA (International Trade), B. Com (H)
Team Tax Connect

Section 2(14)(iii) of The Income tax Act provides that "Agricultural Land" would not be considered as a capital asset and states as under –

".. (iii) agricultural land in India, not being land situated-

(a) in any area which is comprised within the jurisdiction of a municipality (whether known as a 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 of not less than ten thousand 47[***]; or

(b) in any area within the distance, measured aerially,-

(I) not being more than two kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten thousand but not exceeding one lakh; or

(II) not being more than six kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than one lakh but not exceeding ten lakh; or

(III) not being more than eight kilometres, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten lakh.

Explanation.-For the purposes of this sub-clause, "population" means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year"

No criterion has been mentioned that for holding a land to be "agricultural land", agricultural produce must be done on such land and agricultural income should have been derived from such land. Where the land had been shown as agricultural land in Revenue records, there was no application made for conversion of aforesaid agricultural land to non-agricultural land, the agriculture land under consideration was situated beyond 8 km from the municipal limits and other conditions for claiming the said land as agricultural land are satisfied, then the claim u/s 2(14)(iii) cannot be denied on the grounds that the assessee had not performed any agricultural activity on the said land or that the assessee had purchased the said property with the sole intention to sell the same for profit. The same was held in the case of THE ITO, WARD-2(1)(4), AHMEDABAD Vs M/s MEGHDEEP FARMS PVT. LTD [2023-VIL-477-ITAT-AHM].

A question may be asked that when agricultural land is not a 'capital asset' itself, can the profit on sale of the land be taxed under any other head.. It is to be noted that that there is difference between a receipt not being an income and the same being an exempt income under the tax laws. So any profits made on sale of agricultural land, which is not a capital asset, is not an income at all for tax purpose. Such profit made on sale of such agricultural land is not required to be disclosed in the ITR.

LET'S DISCUSS FURTHER!

OUR OFFICES:

MUMBAI

1st Floor, AJ House, Marol Maroshi Rd, Gamdevi, Marol, Andheri East, Mumbai, Maharashtra 400059

Contact Person: Prashant Kumar Jha
Email: prashant.jha@taxconnect.co.in

BENGALURU

Go Spaze, B Narayana Pura, Pura, Mahadevapura, Outer Ring Road, Near HDFC Bank, Karnataka -560016

Contact Person: Tarun Singh Bhadouria
Email: tarun.bhadouria@taxconnect.co.in

DELHI

D-32, Second Floor, Main Vikas Marg, Laxmi Nagar, Delhi – 110092

Contact Person: Poonam Khemka
Email: Poonam.khemka@taxconnect.co.in

KOLKATA

6, Netaji Subhas Road, 3rd Floor, Royal Exchange Building, Kolkata – 700001

Contact Person: Sandeep Mandal
Email: Sandeep.mandal@taxconnect.co.in

KOLKATA

R No 119; 1st Floor; Diamond Arcade; 1/72, Cal Jessore Road, Kolkata – 700055

Contact Person: Uttam Kumar Singh
Email: uttam.singh@taxconnect.co.in

DUBAI

Azizi Feirouz, 803, 8th Floor, AL Furjan, Opposite Discovery Pavillion, Dubai

Contact Person: Rohit Sharma
Email: rohit.sharma@taxconnect.co.in

Disclaimer:

This publication is for private circulation only. Views expressed herein are of the Tax Connect team and are based on the information, explanation, and documents available on Government portal platforms. Tax Connect or any of its employees do not accept any liability whatsoever direct or indirect that may arise from the use of the information contained herein. No matter contained herein may be reproduced without prior consent of Tax Connect. While this e-article has been prepared based on published/other publicly available information considered reliable, we do not accept any liability for the accuracy of its contents.