IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

INCOME TAX APPEAL NO. 53 OF 2013

(The Deputy Commissioner of Income Tax vs. Shri Ashok Manilal Gupta)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's Orders.	Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI &
S.B. SHUKRE, JJ.
APRIL 08, 2015.

Heard Shri Parchure, learned counsel for the appellant and Shri Bhattad, learned counsel for the respondent.

Shri Parchure, learned counsel submits that sale of land at Khasra No. 79 by assessee is a venture and sale consideration cannot be viewed as agricultural income. He points out that the assessee basically is a Khowa trader and his income from agricultural lands with him is not too much. Here, by selling land just within 11 months after its purchase, profit in excess of Rs. One crore has been made and by pointing out that it has been sold, agricultural provisions of Section 2(14) of the Income-Tax Act, are being defeated. He has taken us through the questions of law as framed in memo of appeal.

Shri Bhattad, learned counsel, points out that Income Tax Appellate Tribunal (ITAT) has as a matter of fact found other lands under cultivation and in possession of assessee since 1999-2000. It has also found agricultural income and in that background it has appreciated the controversy. The fact that the land is situated beyond 8 kms. from Corporation limit is also then taken into account to record a finding that it is not an asset under Section 2(14) of the Income Tax Act.

We have perused the order of ITAT. In para 7, the ITAT has found that there are many agricultural lands owned by the assessee. It found that details of agricultural income and agricultural lands are placed at page Nos. 1 & 2 of the compilation before it. It has then given few details thereof along with income disclosed to conclude that assessee was producing agricultural produce.

Here, though the land has been sold just after 11 months, its purchase as agricultural land is not in dispute. The ITAT has found that land was sold on acreage basis and not on square feet basis and in that background has accepted that it was sold as a agricultural land.

Shri Parchure, learned counsel has submitted that this Khasra No. 79 is situated on Wardha road near the developing area and the purchaser has purchased it for starting an industrial unit. However, the fact that it has been sold and purchased as agricultural land is not in dispute. The finding of fact recorded by the ITAT to that effect has not been questioned.

As such, we find that no substantial question of law arises. Income-Tax Appeal is rejected. No order as to costs.

JUDGE **JUDGE**

*GS.