IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

INCOME TAX APPEAL NO. 51 OF 2015

(The Pr. Commissioner of Income Tax 2, Nagpur vs. Shri Amol Ashok Nilawar, Yavatmal)

AND

INCOME TAX APPEAL NO. 52 OF 2015

(The Pr. Commissioner of Income Tax 2, Nagpur vs. SMT. Anjali Anil Bajoria, Yavatmal)

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 &
V.M. DESHPANDE, JJ.
JANUARY 04, 2016.

Heard Shri Mohata, learned counsel for the appellant and Shri Thakkar with Shri Tejal Patil, learned counsel for the respondent.

Question No. 1 which reads as under is raised as substantial question of law :

"1. Whether, on the facts and in the circumstances of the case in law, the Hon'ble ITAT has justified in deleting the addition made by the Assessing Officer as business income on account of receipt from sale of barren agricultural land which was never used for agricultural purpose either by the assessee or by the previous owner and subsequently sold to the builder within the span of 45 days to earn more profit from the dealing of so called land ?"

Thus, the question has been formulated on the premise that it is sale of barren agricultural land which was never used for agricultural purpose either by the assessee or by previous owner.

The ITAT in paragraph 4 of the impugned

order specifically recorded that the Sub-Divisional Officer has issued 7/12 certificate as per Maharashtra Land Revenue Code and as per that certificate, crops were grown on subject land till the date of its sale. There is no specific challenge to this finding as either perverse or erroneous.

According to Shri Thakkar, learned counsel, as the land is at a distance of 8.70 kms i.e. beyond 8 kms of Nagpur Municipal Corporation, the issue is covered by the judgment dated 30.03.2015 delivered by this Court in ITL No. 120 of 2013 (*The Commissioner of Income Tax, Nagpur vs. Nitish Rameshchandra Ghordia, Nagpur*) and other connected matters.

The appeal memo is drawn by Pr. Commissioner of Income Tax – 2, Nagpur.

In view of the above observations, as a finding of fact reached by the I.T.A.T. is not being assailed either as perverse or erroneous, the question noted above cannot fall for consideration.

No substantial question of law, therefore, arises. Both the Income Tax Appeals are rejected. No costs.

JUDGE **JUDGE**

*GS.