442

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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ITA No.12 of 2002
Date of Decision: 05.02.2020

M/s Rajpura Estate Development Limited

Appellant

Versus

Commissioner of Income Tax, Patiala and another

Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Alok Mittal, Advocate
for the appellant.

Mr. Jitin Kohli, Junior Standing Counsel for the Revenue.

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AJAY TEWARI, J. (Oral)

[1] This appeal has been filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chandigarh passed in ITA No.106/Chandi/1995 for the assessment year 1990-91, treating the sale of agricultural land by the appellant as 'profit from business' rather than 'capital gain'.

[2] The appellant is called 'M/s Rajpura Estate Development Limited' and one of the main business of the company is purchase, development and sale of land. It had purchased a piece of agricultural land in the financial year [for short 'FY'] 1982-83 and had sold it after 7-8 years in FY 1989-90. It gained net amount of ₹8,21,000/- odd which he had offered to tax on the basis that it was

'capital gain'. The authorities below held that this explanation cannot be accepted and treated it as 'profit from business', hence the present appeal.

[3] Learned counsel for the appellant has argued that authorities below had erred in brushing aside the facts that right from the time of its purchase, the appellant had reflected the land as current asset and that it was not a case where the land was sold after a few months but a case where the appellant held on to the land for a good number of years (7-8 years) and in these circumstances, the Revenue should have accepted tax on the basis of 'capital gain' rathen than from 'profit from business'. The Tribunal noticed that one of the main business of the appellant was to purchase, develop and sell land. It further noticed that in FY 1989-90 profits from the business as per the appellant was approximately ₹35,000/- and came to the conclusion that in the present case, the gain had to be taxed as 'profit from business'.

[4] The argument that it was reflected as a current asset and for many years it was accepted by the Revenue would not cut much ice for a simple reason that the Revenue would look it at only once it is sold and as long as it was in the ownership of the appellant, the Revenue would not be overly concerned about the manner in which it was classified.

[5] The bare fact that property was held by the appellant for 7-8 years also would not lead to the conclusion that it was purchased as current asset and not as stock-in-trade.

[6] The questions claimed do not arise, consequently, the appeal is dismissed.

[7] Since the appeal is dismissed, the pending application, if any, stands disposed of.

[AJAY TEWARI]
JUDGE

[AVNEESH JHINGAN]
JUDGE

February 05, 2020
pankaj baweja

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No