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**[2025] 181 taxmann.com 584 (Article)**

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Date of Publishing: December 18, 2025

**Taxing Agricultural Land within Municipal Limits: A Misplaced Emphasis on Distance****GOPAL NATHANI**

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Section 2(1A) of the Income-tax Act defines the term “agricultural income”. Under this definition, the land in question must satisfy the following three cumulative conditions:

- a. The revenue or income must be derived from land per se;
- b. Such land must be situated in India; and
- c. The land must be used for agricultural purposes.

Explanation 1 to section 2(1A) further clarifies that revenue derived from land shall not include, and shall be deemed never to have included, any income arising from the transfer of land referred to in items (a) or (b) of sub-clause (iii) of clause (14) of section 2—namely, agricultural land situated within specified municipal limits or within the prescribed distance (currently 8 kilometres) thereof.

Section 2(14), which defines the term “capital asset”, expressly excludes agricultural land situated beyond 8 kilometres from the limits of a municipality from its ambit. When these two provisions are read conjointly, it becomes evident that agricultural land situated beyond 8 kilometres from municipal limits stands entirely outside the charging provisions of the Act.

However, while the statute clearly deems agricultural land beyond 8 kilometres to be non-taxable, there is no corresponding deeming fiction which mandates that land situated within 8 kilometres automatically becomes taxable without reference to its actual character or use. This critical distinction appears to have been overlooked by both the Assessing Officer and the appellate authorities in *Manjit Kaur Kamboj v. Income Tax Officer* [2025] 180 taxmann.com 847 (Chandigarh - Trib.).

Ironically, the controversy before the authorities travelled somewhat ‘out of syllabus’.

**The Dispute**

In this case the Assessing Officer deputed an Inspector to physically verify the distance of the impugned agricultural land from the municipal limits. The Inspector reported that the land was situated at a distance of less than 8 kilometres

—approximately 7 kilometres. On this sole basis, the Assessing Officer concluded that the land constituted a “capital asset” under section 2(14) and, accordingly, brought the capital gains to tax.

The dispute between the taxpayer and the Revenue primarily revolved around measurement of distance from two different municipalities relied upon by the respective parties. The taxpayer’s belief that the land lay outside municipal limits based on an endorsement in the purchase deed, whereas the Revenue argued that if this were so, a similar endorsement should have appeared in the sale deed—copies of which were neither produced nor seen or examined.

In essence, the taxpayer contended that the land did not fall within municipal limits, while the Revenue maintained that it did.

The Tribunal further held that for the purpose of determining whether land falls within or beyond the 8-kilometre radius, the competent authorities are revenue officials such as the Tehsildar or the Municipal authorities (through their revenue wings), and not the Gram Panchayat. Consequently, the certificate issued by the Gram Panchayat and relied upon by the taxpayer was dismissed.

### **Character and Use of the Land**

What is conspicuously absent from the entire exercise is any meaningful enquiry into the character or use of the land.

Section 2(14) does not state that agricultural land loses its character merely due to expansion of municipal limits or its description (or absence thereof) in a registered sale deed. Equally, the provision does not employ expressions such as “on the sale of such land” or “as described in the registered instrument”. The statutory test is not formalistic but substantive.

Agricultural land does not transform into a non-agricultural “capital asset” merely because, on the date of transfer, it falls within municipal limits or within the notified distance therefrom. What is determinative under section 2(14) is the character of the land on the date of transfer, assessed on factual parameters—namely:

1. Whether agricultural operations were being carried on;
2. Whether the land had been converted for non-agricultural use; or
3. Whether agricultural use had permanently ceased.

In the present case, no effort whatsoever was made to ascertain or record findings on the actual usage of the land. The entire taxability was premised solely on proximity to municipal limits as on the date of sale.

### **Final Point**

The approach of taxing capital gains in this case solely on the basis of municipal distance—without examining the agricultural character of the land—appears legally fragile. The statute does not sanction such a mechanical application of section 2(14). Unless the land has demonstrably ceased to be agricultural, the mere expansion of municipal limits or the absence of descriptive endorsements in conveyance deed cannot, by themselves, trigger taxability.