(2005) 01 P&H CK 0020

In the Punjab And Haryana At Chandigarh

Case No : IT Reference No. 68 of 1988 25 January, 2005

Commissioner of Income Tax — APPELLANT

Vs

Amarjit Inderjit Chopra — RESPONDENT

Date of Decision : 25-01-2005

Acts Referred:

Citation : (2006) 153 TAXMAN 39

Hon'ble Judges : Satish Kumar Mittal, J;N.K. Sud, J

Bench : Full Bench

Advocate : D.S. Patwalia, for the Appellant;

Judgement

N.K. Sud, J.

At the instance of the revenue, the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short ''the Tribunal'') has referred the following question of law arising out of its order dated 30-4-1986 relating to assessment year 1980-81 for the opinion of this Court:

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the capital gains arising from the sale of land actually put to agricultural use, wherever located, are not liable to tax?"

2. The controversy raised in this question is purely legal and is covered by the judgment of this court in Tuhi Ram Vs. Land Acquisition Collector and Another, , wherein it has been held that the capital gain of sale of agricultural land within 8 kms. from the Municipality as capital asset is liable to tax. In Union of India and Others Vs. S. Muthyam Reddy, , the Apex Court has also held that profit from sale of agricultural land is not an agricultural income, but is capital gain liable to tax.

3. in view of the aforesaid two authorities, the question is answered in the negative, i.e., in favour of the revenue and against the assessee.

No costs.

