

**IN THE INCOME TAX APPELLATE TRIBUNAL
"B" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
Ms SUCHITRA KMBLE, JUDICIAL MEMBER**

I.T.A. No.2549/Ahd/2025
(Assessment Year: 2015-16)

The Income Tax Officer, (TDS-3), Ahmedabad.	Vs.	Tarun Santramdas Varma 307-308, Sarthik Square, Near New US Pizza, S.G Highway, Bodakdev, Ahmedabad-380054. [PAN :AAIPV6427 C]
(Appellant)	..	(Respondent)

Appellant by :	Shri Abhijit, Sr.DR
Respondent by:	Shri Tushar Hemani, Sr. Advocate
Date of Hearing	17.02.2026
Date of Pronouncement	26.03.2026

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-

This appeal has been filed by the Revenue against the order dated 31.10.2025 passed by the Addl/JCIT(A)-2, Pune (hereinafter referred to as 'Ld. CIT (A)' in short), under Section 250 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act' in short) for Assessment Year 2015-16.

2. The Revenue has raised the following grounds of appeal:

1. The Ld. Addl.CIT (A) has erred in law and facts deciding the appeal of the assessee without providing the opportunity to the AO regarding the admission of the additional evidences produced by the assessee during appellate proceedings. Thus, the acceptance of additional evidence so produced during appellate proceedings are in violation of Section 46A and goes against the statutory provisions of the Act.

2. The Ld. Addl.CIT (A) has erred in law and facts allowing the grounds of the assessee regarding the nature of property (capital asset or not) Under consideration merely on the basis of a letter of Junior Town Planner,

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Gandhinagar Urban Development Authority wherein there is nowhere mentioned about the nearest point (name of the place) of the Gandhinagar Municipal Corporation whereas as per letter dated 17.08.2021 of the Senior Town Planner, Gandhinagar, Urban Development Authority, the areal distance of the parcel of the land under consideration was within 2KM from the Gandhinagar Municipal Corporation.

3. The Ld. Addl.CIT (A) has erred in law and facts allowing the appeal of the assessee by ignoring the notification dated 17.01.2008 & 16.03.2010 of Urban Development Department of Gujarat Government available on public domain. In fact, the assessee has purchased five land parcels of Basan(1), Palaj(1) and Sargasan(3) villages. Basan and Palaj are in the east bank of Sabarmati River which flows from the Gandhinagar City whereas Sargasan falls in south-west direction. Sargasan falls between Ahmedabad Municipal Corporation and Gandhinagar Municipal Corporation. The nearest area of Ahmedabad Municipal Corporation is Chandkheda and Motera Village from Sargasan village. Vide Notification dated 17.01.2008, the area of Motera and Chandkheda Municipalities was included in the Ahmedabad Municipal Corporation. Hence, the areal distance of 8KM from the nearest local limit of Motera and Chandkheda Municipalities i.e. Ahmedabad Municipal Corporation is to be considered. However, in this regard, no distance certificate was obtained during the course of the appellate Proceedings.

Furthermore, vide notification dated 16.03.2010, the Gandhinagar notified area was declared Gandhinagar Municipal Corporation arid as per Census 2011 the population of Gandhinagar Municipal Corporation was more than 1.00 lakh. Hence in this situation the areal distance of 6 KM from the nearest local limit of Gandhinagar Municipal Corporation is to be considered."

3. The brief facts of the case are that the assessee is an individual deriving income under various heads and had filed the return of income declaring total income of Rs.3,30,16,670/-. The case was selected for scrutiny and assessment u/s 143(3) of the Act was completed on 28.12.2017 without making any addition or adverse observation with regard to purchase of immovable properties. Subsequently, proceedings u/s 201/201(1A) were initiated by the TDS Officer on the ground that the assessee had failed to deduct tax at source u/s 194-IA on purchase of certain land parcels. The Assessing Officer held that the total

consideration of the properties exceeded Rs.50 lakh and, therefore, the provisions of section 194-IA were applicable. Accordingly, the assessee was treated as an assessee in default and demand of Rs.1,69,34,640/- including interest was raised vide order dated 29.03.2022.

4. Aggrieved by the order of the Assessing Officer, the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A), after considering the submissions and material on record, held that the provisions of section 194-IA were not applicable and deleted the demand. The relevant observations of the Ld. CIT(A) are as under:-

"9.1 I have gone through the facts of the case, the grounds of appeal and submission made by the appellant. It is seen that all the three grounds raised against the order u/s 201/201(1A) of the act passed by AO vide order dated 29.03.2022 for A.Y 2015-16, therefore the grounds of appeal are adjudicated as under:

9.1.1 The main contention of the assessing officer is that Even if a property. transaction involves more than one buyer and share of each buyer in such transaction is less than Rs.50 lacs, if the total value of the property exceeds Rs.50 lakhs, then the provisions of Section 194IA will be applicable. In such case, TDS was required to be deducted and deposited by each buyer in accordance with their share in the property.

Assessee's contention is that in case of each property, there are multiple buyer and multiple sellers and in each case the payment of consideration made to the owners of land by individual purchaser is less than the prescribed limit of Rs. 50 lakhs under section 194IA of the Act.

9.1.2 Legislative Framework:

Section 194-IA, inserted by Finance Act 2013 (w.e.f. 1 June 2013), mandates 1% TDS on consideration for transfer of immovable property (other than agricultural land) if the consideration is Rs. 50 lakh or more. Sub-section (2) provides that no deduction shall be made where the consideration is less than Rs.50 lakh. The legislative intent, as explained in the Memorandum to the Finance Bill 2013, was to create a reporting trail for high-value urban property transactions while relieving small taxpayers from compliance.

9.1.3. Factual Matrix and AO's Approach

The AO aggregated the total sale consideration of each property irrespective of the number of buyers and sellers, thereby treating the appellant as liable for TDS on the entire value. The AO also invoked section 206AA to apply 20% rate, as certain sellers had not quoted PAN. The AO, however, made no field verification to ascertain the nature or location of land, nor examined whether each payment exceeded Rs. 50 lakh.

9.1.4 Legal Position and Judicial Interpretation:

The ITAT Delhi in "Vinod Soni & Ors v. ITO" held that s. 194-IA(2) applies with reference to each transferee, not the aggregate amount in the sale deed. The Ahmedabad ITAT in "Bhikhabhai Hirabhai Patel v. DCIT (TDS)", the Jodhpur ITAT in "Dalpat Singh Nanecha v. ITO (TDS)* and Central TDS reiterated that the threshold of Rs. 50 lakh applies individually per buyer "M/s Oxcia Enterprises Pvt Ltd v. DCIT seller combination. The principle emerging is that "the law cannot be interpreted differently for the same transaction depending upon whether one deed or multiple deeds are executed."

9.1.5 Applicability of Finance Act 2024 Amendment

The Finance Act 2024 inserted a proviso clarifying that where there are multiple transferors or transferees, the Rs. 50 lakh limit applies to the aggregate consideration. This proviso is prospective from 1 October 2024. For A.Y. 2015-16, the law then in force required consideration to be computed with reference to each buyer and seller individually. Hence, the AO's reliance on aggregate value is misconceived. I believe that if there are multiple buyers and seller in a property transaction and in each case the payment of consideration made to the owners of land by individual purchaser is less than the prescribed limit of Rs. 50 lakhs under section 194IA of the Act then TDS is not to be deducted under 194IA. The amendment to this section has come only in Finance Bill 2024 which has amended the provisions of section 194IA of the Act and inserted a the following proviso applicable with effect from 1st October, 2024 namely-

"Provided that where there is more than one transferor or transferee in respect of any immovable property, then the consideration shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property

In view of the said amendment in the finance bill, where the share of consideration paid by the assessee to each one of the co-owners is less than the limit prescribed u/s 194IA of the Act ie Rs. 50,00,000/-, then it is outside

the scope of section 194IA is valid and correct. Hence, the appellant has not defaulted by not deducting TDS u/s 194IA on the said transactions.

Also I agree that in case of in case of RS No. 414 at Village Sargasan the purchase consideration wherein to Shri Chehuji Shibuji (confirming party for transaction stated at Sr.no5) an amount of Rs.5700000/- was paid, However the amount paid to the confirming party is outside the purview of section 194IA of the Act for the reasons as under.

As per Section 3(26) of General Clauses Act, 1897 "Immovable property shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth; Based on above. One can conclude that the definition of Immovable Property as per Section 194-IA is a restrictive definition and very specific with its intent and not an inclusive definition.

The above definition is also significantly different from the definition of immovable property under Section 269UA (d) r/w Section 2(47) (v) and (vi) of the Income Tax Act wherein the term immovable property would include rights in or with respect to such immovable property.

Therefore, there is no requirement of deducting Tax at Source under section 194-IA on payments made by a transferee to a 'Confirming Party', as he is not the transferor of "immovable property as defined under section 194-IA.

I agree with the case laws sighted by the assessee in Dy. CIT v. Tejinder Singh (2012) 19 taxmann.com 4/50 SOT 391 (Kol.Trib.), the Tribunal held that the phrase 'land or buildings or both' will not include rights in land or buildings or both such as tenancy rights. Also In ITO v. Yasin Moosa Godil [2012] 20 taxmann.com 424 (Ahd. Trib.), it was held that transfer of booking in a flat is not transfer of 'land or buildings or both". Hence the transfer of beneficial interest of the confirming party is not liable for TDS u/s 194IA of the Act.

9.1.6.Nature of Property and Section 2(14) Test:

Certificates from GUDA and Revenue Talati confirm that the lands were agricultural in use and situated beyond 6to8 km from Gandhinagar municipal limits (population 3.34 lakh). Under s. 2(14)(iii) (b), such lands are classified as rural agricultural lands and not capital assets. Section 194-IA is explicitly inapplicable to agricultural land. The AO erred in ignoring this statutory exclusion.

"Section 2(14) of the Income Tax Act defines agricultural income to include income from agricultural land in India but outside municipal limits with a

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population exceeding 10,000, subject to distance and use criteria specified as under.

Any Agricultural Land situated exceeding the distance of -

Two kilometers, from the local limits of any municipality or cantonment board and which has a population of more than ten thousand but not exceeding one lakh: or

Six kilometers, from the local limits of any municipality or cantonment board and which has a population of more than one lakh but not exceeding ten lakh: or

Eight kilometers, from the local limits of any municipality or cantonment board and which has a population of more than ten lakhs.

measured aerially is treated as Rural Agricultural Land and not a capital asset as per section 45(1) of the act.

The assessee has submitted a certificate from the Gandhinagar Urban Development Authority (GUDA) confirming that all the relevant lands are classified as rural agricultural lands and specifying the aerial distance of each property from the Gandhinagar Municipal Corporation limits. The population of Gandhinagar Municipal Corporation is 334224 and all the land parcels are beyond 6 kms of municipal limits and hence are regarded as rural agricultural land and not a capital asset. The census of district has been produced which is placed on record which shows population of Gandhinagar municipal corporation as 334224.

9.1.7 Applicability of Section 296AA:

Once no TDS obligation exists under s.194-IA, section 206AA cannot be triggered. Even otherwise, the AO's automatic application of 20% rate without verifying Form 60 declarations of agriculturist-sellers is contrary to law and CBDT guidelines.

In the light of above facts I am of the opinion that the land parcels purchases by assessee were agricultural in nature and not capital assets supported by the fact that there were multiple buyers and sellers and in each transaction payment made by the assessee was less than 50 lacs to each seller and hence the assessee was not liable to deduct the TDS u/s.194 IA and therefore, the Assessing Officer is directed to delete the addition. Hence, ground no. 1 & 2 are allowed.

5. Aggrieved by the order of the Ld. CIT(A), the Revenue is now in appeal before us.

Ground No. 1: Violation of Rule 46A

6. The Revenue has contended that the Ld. CIT(A) erred in admitting additional evidences without providing an opportunity to the Assessing Officer, thereby violating Rule 46A.

6.1 We have heard the contentions of both the parties on this issue. It is observed that the Ld. CIT(A) has relied upon certificates issued by the Gandhinagar Urban Development Authority and other revenue authorities while adjudicating the issue relating to the nature and location of land. Though the order does not specifically record calling for a remand report, the evidences relied upon are in the nature of official documents issued by competent authorities. Further, the Revenue has not brought on record any specific prejudice caused due to their admission. Considering that the issue involved can be decided on the basis of material available on record and that the evidences go to the root of the matter, we do not find it necessary to restore the matter on this procedural ground. Accordingly, Ground No. 1 of the Revenue is dismissed.

Ground No. 2: Determination of Nature of Property

7. The Revenue has challenged the finding of the Ld. CIT(A) in treating the land as agricultural land, contending that reliance on the certificate of Junior Town Planner is insufficient and that another letter of the Senior Town Planner indicates that the land is within 2 km of municipal limits.

7.1 We have heard the rival contentions on this issue and perused the material available on record. The Ld. CIT(A) has based his conclusion on certificates issued by the Gandhinagar Urban Development Authority, revenue records and census data to hold that the land parcels are situated beyond the prescribed distance from the municipal limits. The Assessing Officer has not carried out any independent verification nor brought any conclusive evidence on record to establish that the lands fall within the specified distance.

7.2 The reliance placed by the Revenue on another communication is not sufficient to dislodge the factual finding recorded by the Ld. CIT(A), particularly in absence of proper verification or corroborative evidence. In such circumstances, we find no reason to interfere with the finding that the lands are agricultural in nature and not capital assets within the meaning of section 2(14) of the Act. Accordingly, Ground No. 2 of the Revenue is dismissed.

Ground No. 3: Consideration of Government Notifications etc.

8. The Revenue has further contended that the Ld. CIT(A) failed to consider the notifications dated 17.01.2008 and 16.03.2010 and erred in not properly appreciating the distance of the land from the limits of Ahmedabad Municipal Corporation and Gandhinagar Municipal Corporation.

8.1 Heard the contentions of the parties on this issue. The Ld. CIT(A) has taken into account the population criteria and distance from the

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municipal limits based on official certificates and records. The Assessing Officer has not brought any material evidence on record to demonstrate that the lands fall within the prescribed distance when measured from the nearest municipal limits as per the relevant notifications. The contention of the Revenue remains unsupported by any authenticated distance measurement or certificate. Therefore, in absence of any contrary evidence, the factual finding recorded by the Ld. CIT(A) that the lands are situated beyond the prescribed limits cannot be disturbed. Consequently, the lands qualify as rural agricultural land and fall outside the scope of section 194-IA. Ground No. 3 of the Revenue is therefore dismissed.

9. Since the lands in question are held to be agricultural and outside the scope of section 194-IA, the assessee cannot be treated as an assessee in default u/s 201(1) of the Act and the interest charged u/s 201(1A) is also therefore not sustainable. We, therefore, find no infirmity in the order of the Ld. CIT(A).

10. In the result, the appeal filed by the Revenue is dismissed.

The order is pronounced in the open Court on 26.03.2026.

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Sd/-

**(DR. B.R.R. KUMAR)
VICE-PRESIDENT**

Ahmedabad; Dated 26.03.2026

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आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
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