

Circular No. 17/2015
F.No.279/Misc./140/2015-ITJ
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, 6th October, 2015

Subject:- Measurement of the distance for the purpose of section 2(14)(iii)(b) of the Income-tax Act for the period prior to Assessment year 2014-15

"Agricultural Land" is excluded from the definition of capital asset as per section 2(14)(iii) of the Income-tax Act based, inter-alia, on its proximity to a municipality or cantonment board. The method of measuring the distance of the said land from the municipality, has given rise to considerable litigation. Although, the amendment by the Finance Act, 2013 w.e.f. 1.04.2014 prescribes the measurement of the distance to be taken aerially, ambiguity persists in respect of earlier periods.

2. The matter has been examined in light of judicial decisions on the subject. The Nagpur Bench of the Hon. Bombay High Court vide order dated 30.03.2015 in **ITA 151 of 2013** in the case of Smt. Maltibai R Kadu has held that the amendment prescribing distance to be measured aerially, applies prospectively i.e. in relation to assessment year 2014-15 and subsequent assessment years. For the period prior to assessment year 2014-15, the High Court held that the distance between the municipal limit and the agricultural land is to be measured having regard to the shortest road distance. The said decision of the High Court has been accepted and the aforesaid disputed issue has not been further contested.

3. Being a settled issue, no appeals may henceforth be filed on this ground by the officers of the Department and appeals already filed, if any, on this issue before various Courts/ Tribunals may be withdrawn/ not pressed upon. This may be brought to the notice of all concerned.

(D.S. Chaudhry)
CIT (A&J), CBDT,
New Delhi