

**(2004) 05 DEL CK 0107**

**Delhi High Court**

**Case No:** IT Reference No's. 63 of 1984 and 118 and 248 of 1985 6 May 2004

Commissioner of Income Tax

APPELLANT

Vs

Shri Chand

RESPONDENT

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**Date of Decision:** May 6, 2004

**Citation:** (2004) 141 TAXMAN 57

**Hon'ble Judges:** B.C. Patel, C.J; Badar Durrez Ahemed, J

**Bench:** Full Bench

**Advocate:** R.C. Pandey and Ajay Jha, for the Revenue M.S. Syali Satish Khosla and M.K. Giri, for the assessee, for the Appellant;

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### **Judgement**

B.C. Patel, C.J.

In these three references, an identical question has been referred by the Income Tax Appellate Tribunal for the opinion of this court. The question reads as under :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in holding that no capital gain was assessable on the ground that the agricultural land in village Nangal Dewat belonging to the assessed did not fall within the definition of capital asset u/s 2(14)(iii) of the Income Tax Act, 1961

2. It may be noted that the Tribunal considered the decision in the case of Surjan Singh of Nangal Dewat and rendered the decision. Against the decision of the Tribunal, the revenue approached this court and the case in [Commissioner of Income Tax Vs. Surjan Singh, Kehar Singh, Prahlad, Rai Singh, Prahlad Singh, Nafe Singh, Bal Ram, Charan Singh, Jagdish and Jagdish](#), The question raised in the aforesaid appeal reads as under :

"Whether, on the facts and in the circumstances of the case, capital gains arising on transfer of agricultural lands in village Nangal Dewat, Delhi, is chargeable to tax ?"

3. The court answered the question in the affirmative, that is, in favor of the revenue and against the assessed which no order as to costs. Since the question is the same,

lands are of the same village, in view of the aforesaid decision we decide the question in favor of the revenue and against the assessed with no order as to costs.