

## **Transfer of right to use immovable properties can't be considered as 'slump sale'; sec. 50B inapplicable: HC**

INCOME TAX : Where assessee entered into a business agreement and transferred its business as a going concern basis, since assessee had transferred only 'right to use immovable properties' and not 'whole' undertaking which was one of essential conditions under section 2(42C), transfer was not to be considered as a 'slump sale' and, therefore, Assessing Officer was not justified in computing capital gains under section 50B

Section [50B](#), read with section [2\(42C\)](#), of the Income-tax Act, 1961 - Capital gains - Slump sale, cost of acquisition in case of (Scope of) - Assessment year 2011-12 - Assessee entered into a business agreement and transferred its business on a going concern basis - It transferred all its assets and liabilities except land and building for a lump sum consideration - While computing lump sum consideration, assessee took net worth at 'Nil', treating same as capital gains - Assessing Officer rejected same and computed capital gains under section 50B - Assessee contended that land and buildings were not transferred under agreement and that only individual assets were transferred but ownership was retained by assessee, therefore, it was not as 'slump sale' as per section 2(42C) and capital gains could not be computed under section 50B holding that it was a long-term slump sale - It was noted that as per business agreement, it was clear that assessee had transferred only 'right to use immovable properties' and not 'whole' undertaking which was one of essential conditions under section 2(42C) - Whether since immovable assets of assessee's business were not transferred and essential conditions under section 2(42C) were not satisfied, transfer could not be considered as a 'slump sale' and therefore, Assessing Officer was not justified in computing capital gains under section 50B - Held, yes [Paras 10 and 11] [In favour of assessee]

*Click below link for the Judgment:*

<https://www.taxmann.com/research/direct-tax-laws/top-story/10101000000342859/transfer-of-right-to-use-immovable-properties-cant-be-considered-as-slump-sale-sec-50b-inapplicable-hc-caselaws>

*(Source: Taxmann.com)*