

ITAT gives capital asset tag on bitcoin

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New Delhi: The Jodhpur Income Tax Appellate Tribunal (ITAT) has ruled gains from the sale of bitcoin before April 1, 2022, are taxable as capital gains and eligible for exemption under Section 54F of the Income Tax Act.

The tribunal's decision came in response to an appeal by an assessee who had declared ₹1.74 crore in total income for AY 2021-22, including long-term capital gains from the sale of bitcoin.

The assessee purchased bitcoin for ₹5.05 lakh in 2015-16 and sold it for ₹6.69 crore in 2020-21, claiming an indexed cost of ₹5.73 lakh and reporting LTCG of ₹1.66 crore.

The ITAT clarified that while cryptocurrencies such as bitcoin are not classified as "currency," they can still qualify as capital assets under Section 2(14) of the Income Tax Act.

The ruling rejected the assessment officer's contention

that crypto-currency should not be treated as a capital asset. The ITAT said Finance Act, 2022, introduced virtual digital assets (VDAs) as a formal classification effective April 1, 2022, but did not alter their fundamental nature as capital assets.

The tribunal highlighted that Section 45(1) mandates that profits from the transfer of capital assets be taxed under the capital gains head. It further noted that the assessee's profile and investment pattern suggested an intention to hold bitcoin for long-term capital appreciation, rather than regular trading activity.

Sandeep Jhunjhunwala, M&A Tax Partner at Nangia Andersen, said: "This ruling could be a linchpin for crypto investors who declared gains before April 1, 2022, when the formal tax regime for VDAs was introduced. The decision provides clarity for the pre-2022 period, while also aligning with the classification of VDAs under 'Capital Gains' in the current tax regime."

New record

Bitcoin hit a record high above \$106,000 on Monday after President-elect Donald Trump suggested he plans to create a US bitcoin strategic reserve similar to its strategic oil reserve, stoking the enthusiasm of crypto bulls.

ITAT: Crypto Sale Profits Pre-2022 to be Treated as Capital Gains

Suryash Kumar

New Delhi: Cryptocurrencies are capital assets and any profits made on their sale prior to the 2022 rules laid down by the government should be considered capital gains and taxed accordingly, the Income Tax Appellate Tribunal (ITAT) has ruled.

The decision is significant as it recognises virtual digital assets as capital assets, said experts. "It not only recognises Bitcoin as a capital asset but also provides clarity on how such transactions should be treated for the period before the introduction of the formal VDA (virtual digital asset) regime in 2022," said Sandeep Jhunjhunwala, tax partner (M&A) at Nangia Andersen.

Any income from the sale or transfer of virtual digital assets from April 1, 2022, is taxable at the rate of 30%, plus surcharge and cess, following the government's latest notification. The ITAT bench in Jodhpur, comprising S Seethalakshmi and Rathod Kamlesh Jayantbhai, held that cryptocurrency is "an asset and therefore gain on sale of cryptocurrency has to be taxed under the head 'capital gain' and not under the head 'income from other sources' before the lawmaker made the specific provision in the (Income Tax) Act". Moreover, since income from the sale of cryptocurrencies is to be taxed in line with the provisions applicable to long-term capital gains (as the assessee held it for more than three years), the tribunal directed the assessment officer to allow the person the deduction benefits, as applicable under the law.

The ITAT was hearing a case where a person, who had bought cryptos worth ₹5.05 lakh in 2015-16 and sold them in 2020-21 at ₹6.69 crore, argued that these be treated as capital assets, as the transactions had taken place before the government defined virtual digital assets under the Income Tax Act.



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