

# KAPIL AGRAWAL & ASSOCIATES

## Chartered Accountants

9A, GEETA ENCLAVES, BANK COLONY, KRISHNA NAGAR, , MATHURA 281004

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### TO WHOM SO EVER IT MAY CONCERN

We have examined the Books of accounts of Shri Meghshyam Varshney S/o Shri Harish Chand Varshney and on the basis of books of accounts this is to certify that Meghshyam Varshney transfer his two Lands (First Situated at Khasra No 397, Mauja Raal, Mathura, measuring 0.5573 heactare and Second one Situated at Khasra No 398, Mauja Raal, Mathura, measuring 0.3923 hectare) in M/s Girraj Land (Partnership firm) as Capital in Partnership firm and Stock of firm.

Further confirmed that this transaction was done as per Section 14 of Indian Partership Act 1932 and also Mr. Meghshyam Varshney also transfer this land from his books as per Sec 45(3) of Income Tax Act, 1961.

**In Support of this transaction the Provision of Indian Partnership Act, 1932 and Income Tax Act, 1961 are given below**

### Section 14 in The Indian Partnership Act, 1932

#### **The property of the firm. –**

Subject to contract between the partners, the property of the firm includes all property and rights and interests in **property originally brought into the stock of the firm**, or acquired, by purchase or otherwise, by or for the firm, or for the purposes and in the course of business of the firm, and includes also the goodwill of the business. Unless the contrary intention appears, property and rights and interests in property acquired with money belonging to the firm are deemed to have been acquired for the firm.

#### Section 45(3) of Income Tax

Sec 45(3) (3) The profits or gains arising from the transfer of a capital asset by a person to a firm or other association of persons or body of individuals (not being a company or a co-operative society) in which he is or becomes a partner or member, by way of capital contribution or otherwise, shall be chargeable to tax as his income of the previous year in which such transfer takes place and, for the purposes of section 48, the amount recorded in the books of account of the firm, association or body as the value of the capital asset shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.



**The Various Courts confirms that no document of transfer is necessary when the partner brings in to Partnership firm some of his assets as Capital.**

Madras High Court in the case of *R.M. Ramanathan Chettiar v. Controller of Estate Duty* [1975] 99 ITR 410 (Mad.) held that no document of transfer is necessary when the partner brings into the partnership firm some of his assets with an intention to treat the same as partnership assets even though the assets so brought in consist of immovable properties. In arriving at this conclusion favourable to the assessee the Madras High Court referred to an earlier decision rendered by the Madras High Court in the case of *Chief Controlling Revenue Authority v. Chidambaram* AIR 1970 Mad 5 wherein the earlier Bench took the same view that no document is necessary when a partner brings into the partnership some of his assets with an intention to treat the same as partnership assets, that by virtue of section 14 of Partnership Act, property could be thrown into the partnership stock without any formal document, so as to make it the property of the firm. This view was taken by various High Courts on earlier occasions.— two such instances being the one taken by the Full Bench of the Calcutta High Court in the case of *Prem Raj Brahmin v. Bhani Ram Brahmin*, AIR 1946 ILR 1 Cal. 191 [FB] and the Patna High Court in the case of *Firm Ram Sahay Mall Rameshwar Dayal v. Bishwanath Prasad*, AIR 1963 Patna 221. In fact, this view has been followed for tax purposes in ascertaining the hands in which the income from the property has to be assessed in different contexts as in *CIT v. Hind Construction Ltd.* [1972] 83 ITR 211 (SC) and *CIT v. Amber Corpn.* [1981] 5 Taxman 56 (Raj). The Delhi High Court in the case of *Addl. CIT v. Manjeet Engineering Industries* [1984] 18 Taxman 235 (Delhi) also came to the same conclusion as that of the Madras High Court in *R.M. Ramanathan Chettiar's* case (*supra*) that no document of transfer is necessary when a partner brings into partnership some of his assets to treat the same as partnership assets even though the assets brought in consist of immovable properties. The Delhi High Court in this case reviewed a number of decisions on this point before arriving at a decision favourable to the assessee.

The Supreme Court of India in his Latest Judgment **SACHIN JAISWAL Versus M/s HOTEL ALKA RAJE & OTHER** on **Feb 27,2025** that irrespective of the character of the property, when it is brought in by the partner when the partnership is formed, it becomes a property of the partnership firm, by virtue of Section 14 of Partnership Act and also The Supreme Court on observed that a contribution made by the partner to the partnership firm becomes the firm's property as per Section 14 of the Partnership Act, 1932 and neither the partner nor his legal heirs would have an exclusive right over the firm's property after the partner's death or retirement except the share in profit in proportion to the contribution made in partnership firm

For Kapil Agrawal & Associates

(Chartered Accountant)

Kapil B  
Kapil Agrawal



(Proprietor)

Date:- 16/12/2025