

आयकर अपीलीय अधिकरण, एस एम सी न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

S M C BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य के समक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.397/Mds/2013

निर्धारण वर्ष / Assessment Year : 2001-01

The Income Tax Officer,
Business Ward II(3),
Chennai - 600 034.

v.

Shri A. Radhakrishnan (deceased)
Rep.By.L/H Wife
Smt. R. Vijayalakshmi,
18/1, Raja Street, T. Nagar,
Chennai - 600 017.

(अपीलार्थी/Appellant)

PAN : ADRPR 9965 K

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri A.V. Sreekanth, JCIT

प्रत्यर्थी की ओर से/Respondent by : Sh. A.S. Sriraman, Advocate

सुनवाई की तारीख/Date of Hearing : 20.10.2015

घोषणा की तारीख/Date of Pronouncement : 20.11.2015

आदेश / O R D E R

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) – VI, Chennai, dated 23.11.2012 and pertains to assessment year 2001-02.

2. Shri A.V. Sreekanth, the Ld. Departmental Representative, submitted that the assessee claimed agricultural income at ₹11,71,000/-. However, the Assessing Officer found that the

assessee has not produced any evidence for cutting and sale of casurina. The assessee has also not filed any material to show that he is the owner of the land. Therefore, the Assessing Officer estimated the agricultural income at ₹40,000/- and the balance of ₹11,31,000/- was treated as income from other sources. On appeal by the assessee, the CIT(Appeals) found that the assessee disclosed the agricultural income from assessment years 1989-90 to 1999-2000 and the same was accepted by the Revenue, sometimes by scrutiny assessments under Section 143(3) of the Act. Therefore, in the 12th year, the Assessing Officer cannot take a contrary view. The Ld. D.R. pointed out that under the scheme of Income-tax Act, each and every year is separate and distinct. Moreover, the principle of *res judicata* is not applicable to the income-tax proceedings. Therefore, merely because the claim of the assessee was accepted from the assessment year 1989-90 to 1999-2000, it does not mean that the claim of the assessee has to be ultimately admitted during the year consideration. Referring to the grounds of appeal, the Ld. D.R. pointed out that the assessee is uniformly claiming ₹ 10 lakhs as income from agriculture. According to the Ld. D.R., the assessee cannot have any constant income continuously for all earlier assessment years. In the absence of any

evidence to establish the cultivation and sale of agricultural produce, according to the Ld. D.R., the CIT(Appeals) ought not have deleted the addition made by the Assessing Officer.

3. On the contrary, Sh. A.S. Sriraman, the Ld. counsel for the assessee, submitted that the assessee was disclosing agricultural income from the assessment year 1989-90 to 1999-2000 continuously. The assessee has also produced a certificate from Village Officer to establish the ownership of the land and the estimated income received from cultivation. The assessee has also filed before the Assessing Officer a copy of the adangal extract to establish the cultivation. The only objection of the Assessing Officer is that the assessee has not produced any evidence for realization of sale proceeds. According to the Ld. counsel, the agricultural produce was sold locally, therefore, no evidence is available with the assessee. According to the Ld. counsel, there was an evidence to establish the cultivation. The assessee has also produced a copy of the adangal extract before the Assessing Officer. Apart from that, the Village Officer has also certified that the assessee cultivated the land. In those circumstances, the Assessing Officer is not justified in disbelieving the claim of the assessee and treating the sum of ₹11,31,000/- as income from other sources.

4. I have considered the rival submissions on either side and perused the relevant material on record. Admittedly, the assessee has claimed a sum of ₹11,71,000/- as income from agriculture. The Assessing Officer has taken ₹40,000/- as income from agriculture and the balance of ₹11,31,000/- as income from other sources. To support the claim of cultivation, the assessee has produced adangal extract maintained by the State Revenue authorities. In addition to that, the assessee has also filed a certificate from Village Officer. Admittedly, the State Revenue Department maintains village record for cultivation. The cultivation account of the village would be known as “adangal register” or “Village Account No.2”. The concerned Village Officer is expected to go around the village and take note of cultivation made by the respective persons in the land. The cultivation account has to be taken with reference to each survey number. The cultivation account taken by the Village Officer would be cross verified by the senior officer in Taluk Office at the level of Deputy Tahsildar and thereafter the same will be placed before the Statistics Committee headed by Tahsildar so as to estimate the food production of the taluk. Therefore, it is obvious that the adangal register is a record maintained by the Revenue authorities in the course of performing the official duties. This

record maintained in the course of performing the official duty cannot be so lightly ignored by the Income Tax Officer. When the adangal register establishes the fact that the assessee was cultivating the land and when it was further certified by the concerned Village Officer, this Tribunal is of the considered opinion that the assessee is in fact cultivating the land as claimed. Therefore, this Tribunal has no reason to doubt the claim of the assessee with regard to cultivation.

5. Now coming to the sale of agricultural produce, the Assessing Officer has doubted the claim of the assessee with regard to sale of the agricultural produce. It is an admitted fact that the farmers of our country has to sell their produce in unregulated market. No purchasers of the agricultural produce would be issuing receipts for purchase of agricultural produce. When the agriculture market is unregulated in this country, expecting documents from agriculturists for sale of agricultural produce may not be justified. Therefore, what is required to see is whether the assessee is cultivating the land or not? Once the assessee cultivates the land and in the absence of any evidence to show that there was any drought in the locality or entire crop was damaged, the presumption will be that the assessee harvested the crop and received

agricultural income from crop cultivation. In this case, the Village Officer has certified that the assessee has received ₹11,71,000/- as agricultural income. The Assessing Officer is doubting the claim of the assessee to the extent of ₹11,31,000/-. As already observed, when the agricultural produces are sold in unregulated market in this country, it may not be justified to blame the agriculturists for not producing any evidence to establish their agricultural produce or sale proceeds of the agricultural produce. In those circumstances, this Tribunal is of the considered opinion that the CIT(Appeals) has rightly deleted the addition made by the Assessing Officer and treated the entire sum of ₹11,31,000/- as agricultural income. This Tribunal finds no infirmity in the order of the lower authority and accordingly the same is confirmed.

6. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 20th November, 2015 at Chennai.

Sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 20th November, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-VI, Chennai
4. आयकर आयुक्त/CIT-IV, Chennai
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.