

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI
BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER
I.T.A. No.5691/M/2015
(Assessment Year: **2005-2006**)

Mr. Rajiv Rajaram Kashyap, 51/54, Juhu Supreme Shopping Center, Gulmohar Cross Road, No.9 JVPD Scheme, Andheri (W), Mumbai – 400 049.	बनाम/ Vs.	DCIT-8(1), Mumbai.
स्थायी लेखा सं./PAN : ACUPK9810E		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	None
प्रत्यर्थी की ओर से/ Respondent by	:	Shri Aarsi Prasad, DR

सुनवाई की तारीख /Date of Hearing : 20.06.2016

घोषणा की तारीख /Date of Pronouncement : 20.06.2016

आदेश / O R D E R

PER D. KARUNAKARA RAO, AM:

This appeal filed by the assessee on 21.12.2015 is against the order of the CIT (A)-16, Mumbai dated 9.9.2015 for the assessment year 2005-2006. In this appeal, assessee raised the effective ground revolves around the CIT (A)'s action in upholding the decision of the AO in making the addition of Rs. 4 lakhs on account of agricultural income as income from undisclosed sources.

2. Briefly stated relevant facts of the case are that the assessee, who is an individual, filed the return of income declaring the total income of Rs. 3,16,027/- and agricultural income of Rs. 4 lakhs. Assessment was completed u/s 143(3) read with section 147 of the Act and the assessed income was determined at Rs. 7,16,030/- which includes the addition of Rs. 4 lakhs. In the assessment AO made the said addition by holding that assessee failed furnish the details in respect of agricultural income of Rs. 4 lakhs and therefore, he treated the said income as undisclosed income of the assessee. Aggrieved, assessee carried the matter in appeal before the first appellate authority.

3. During the proceedings before the first appellate authority, after considering the submissions of the assessee, CIT (A) upheld the decision of AO and dismissed the appeal. Again aggrieved with the said decision of the CIT (A), assessee is in further appeal before the Tribunal.

4. During the proceedings before me, none appeared on behalf of the assessee to represent its case.

5. On the other hand, Ld DR for the Revenue heavily relied on the orders of the Revenue Authorities in general and decision of the CIT (A) in particular. Bringing my attention to para 4 and its sub-paras of the CIT (A)'s order in particular, Ld DR mentioned that before the Revenue Authorities, assessee categorically admitted that no evidences like sale of agricultural produce, receipt of agricultural income etc were available with him. Therefore, considering the absence of any documentary evidence to substantiate the assessee's claim, the decision taken by the AO as well as the CIT (A) is correct and no need to be disturbed.

6. After hearing Ld DR for the Revenue and on perusal of the orders of the Revenue Authorities in general and para 4.5 in particular, I find the same is relevant in this regard. Considering the significance of the said para 4.5 of the CIT (A)'s order and for the sake of completeness of this order, the same is extracted as under:-

"4.5. The assessee has failed to produce even a single evident in support of actual cultivation of land. Therefore, in view of the Hon'ble Apex Court judgments [CIT vs. Ramakrishna Deo, Civil Appeal No.426 of 1957 (1995) 33 ITR 0312 and in the case of CIT vs. Jyothikana ChOwdhurani & Othrs, Civil Appeals No.57 to 62 of 1956 (1957) 32 ITR 0705], the claim of the appellant regarding earning of agricultural income for an amount of Rs. 4 lakhs cannot be accepted. Hence, appeal is dismissed and addition made by the AO is confirmed."

7. From the above, I find the CIT (A) discussed the issue at length before denying the claim of the assessee. It is well settled law that the onus is on the assessee, who claims exemption, to substantiate its claim with proper evidence which lacks in the present case. Further, at relevant point of time, assessee admitted before the lower authorities that *no evidence is available to substantiate his claim of agricultural income amounting to Rs. 4 lakhs*. Considering the same, I am of the opinion that the decision taken by the CIT (A) in upholding the AO's

decision is fair and reasonable and it does not call for any interference. Accordingly, grounds raised by the assessee are dismissed.

8. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 20th June, 2016.

Sd/-

(D. KARUNAKARA RAO)
ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक 20.6.2016
व.नि.स./ OKK, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,
उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**