

आयकर अपीलीय अधिकरण, बी / एस एम सी न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

B / SMC BENCH, CHENNAI

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

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

आयकर अपील सं./ITA Nos.1015, 1016 & 1017/Mds/2016

निर्धारण वर्ष / Assessment Years : 2009-10 to 2011-12

Shri K. Sengottaiyan,
C/o M/s Subbaraya Aiyar
Padmanabhan & Ramamani
Advocates,
New No.75 Old No.105,
Dr. Radhakrishnan Salai,
(Opp. Hotel President),
Mylapore, Chennai - 600 004.

v. The Income Tax Officer,
Ward 2(5),
Erode.

PAN : BEUPS 3598 L

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh. Saroj Kumar Parida, Advocate

प्रत्यर्थी की ओर से/Respondent by : Sh. P. Radhakrishnan, JCIT

सुनवाई की तारीख/Date of Hearing : 13.06.2016

घोषणा की तारीख/Date of Pronouncement : 24.08.2016

आदेश /O R D E R

All the three appeals of the assessee are directed against the respective orders passed by the Commissioner of Income Tax (Appeals) – 3, Coimbatore, for assessment years 2009-10, 2010-11 and 2011-12. Since common issue arises for consideration in all

these three appeals, we heard these appeals together and disposing of the same by this common order.

2. The appeal for assessment year 2011-12 in I.T.A. No. 1017/Mds/2016 filed by the assessee is barred by limitation. In fact, the Registry has issued a Defect Memo pointing out the delay of 140 days. In spite of that, the assessee has not filed any application for condonation of delay. Since there is no prayer from the assessee to condone the delay of 140 days in filing the appeal, this Tribunal is of the considered opinion that the appeal filed by the assessee for assessment year 2011-12 is not maintainable. Therefore, the assessee's appeal in I.T.A. No.1017/Mds/2016 is dismissed.

3. Now coming to other years, the only issue arises for consideration is with regard to estimation of agricultural income. For assessment year 2009-10, the assessee claims agricultural income to the extent of ₹19,38,000/-; for the assessment year 2010-11, the assessee claimed agricultural income to the extent of ₹27,57,500/- and for the assessment year 2012-13, the assessee claimed agricultural income to the extent of ₹15,72,000/-. The Assessing Officer found that in the absence of material for sale of

coconut, the claim of the assessee could not be accepted. Now coming to the assessment year 2010-11, the Ld.counsel for the assessee submitted that the assessee is holding 12.55 acres of land in Jambai Village and another 25.71 acres in Oricheri Village. The assessee cultivated coconut and areca nut trees. The cultivation made by the assessee is not in dispute. The Assessing Officer estimated the yielding capacity on the basis of the so-called report from the Assistant Director of Agriculture. According to the Ld. counsel, the assessee sold the coconut in the market and the net profit was declared as agricultural income. Therefore, the estimation made by the Assessing Officer on the basis of so-called report of Assistant Director of Agriculture, Bhavani is not correct. Referring to the order of the CIT(Appeals), the Ld.counsel submitted that when the cultivation of coconut and areca nut trees is not in dispute, the Assessing Officer has to take the expected yield from the coconut trees and the report of the Assistant Director of Agriculture cannot be a basis for making any disallowance. Furthermore, producing documentary evidence for sale of coconut is impossible one. According to the Ld. counsel, the assessee is an individual and not maintaining any books of account for agricultural

activities, therefore, the disallowance made by the Assessing Officer as confirmed by the CIT(Appeals) is not justified.

4. On the contrary, Sh. P. Radhakrishnan, the Ld. Departmental Representative, submitted that the assessee himself produced a technical report claiming that the coconut trees cultivated by the assessee are of higher quality and bigger in size. The State Agriculture Department has provided the rate prevailing during the assessment year 2008-09 on various dates depending upon variety of the coconuts. The assessee has not furnished any details of the varieties of coconut, therefore, the Assessing Officer adopted the average rate of the three varieties. In the absence of any material for sale of coconuts as claimed by the assessee, the objection of the assessee was rejected and the Assessing Officer has rightly estimated the income from coconut trees. According to the Ld. D.R., the CIT(Appeals), after considering the factual situation in this case, confirmed the estimation made by the Assessing Officer.

5. We have considered the rival submissions on either side and perused the relevant material available on record. From the order of the Assessing Officer it appears that the assessee has cultivated 12.55 acres of land in Jambai Village and 25.71 acres of land in

Oricheri Village. In Jambai Village, the assessee has cultivated nearly 860 coconut trees and in Oricheri Village, the assessee has cultivated 1837 coconut trees. The Assessing Officer estimated the yield from each coconut tree from Oricheri Village at 201 per tree. Similarly, in Jambai village, the Assessing Officer estimated 92 coconuts per tree in a year. This Tribunal is of the considered opinion that the average yield from the coconut is 100 to 120 nuts per tree in a year. The Assessing Officer, in fact, estimated the yield very fairly. The estimation made by the Assessing Officer is beyond the average yield for a coconut tree. The Assessing Officer has taken the prevailing rate in the assessment year 2008-09 ₹5 per coconut and estimated the income. The assessee even though declared the income from coconut trees at ₹31,14,900 and the net agricultural income shown by the assessee was ₹19,38,000/-, the Assessing Officer estimated the income from coconut at ₹22,41,785/-. Ultimately, the Assessing Officer found that the net agricultural income from the sale of coconut is ₹10,64,885/-. This Tribunal is of the considered opinion that the estimation made by the Assessing Officer for coconut trees is above average, therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

6. In the result, all the appeals filed by the assessee stand dismissed.

Order pronounced on 24th August, 2016 at Chennai.

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 24th August, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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