

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम
IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM

श्री वी. दुर्गराव, न्यायिक सदस्य एवं
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष
BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./I.T.A.Nos.178 to 182/Vizag/2013
(निर्धारण वर्ष / Assessment Years: 2006-07 to 2010-11)

P. Yasoda
Visakhapatnam
[PAN No.AIXPP2350D]
(अपीलार्थी / Appellant)

ACIT, Central Circle-2,
Visakhapatnam
(प्रत्यार्थी / Respondent)

अपीलार्थी की ओर से / Appellant by : Shri I. Kama Sastry, AR
प्रत्यार्थी की ओर से / Respondent by : Shri Deba Kumar Sonowal,
DR
सुनवाई की तारीख / Date of hearing : 06.03.2018
घोषणा की तारीख / Date of Pronouncement : 09.03.2018

आदेश / O R D E R

PER Bench:

These appeals filed by the assessee are directed against common order passed by the Commissioner of Income Tax (Appeals)-I {CIT(A)}, Hyderabad vide ITA Nos.0386 to 0390/CC-2, Vizag/CIT(A)-I/11-12 dated 27.12.2012 for the assessment years 2006-07 to 2010-11. Since, the facts are identical and issues are common, they are clubbed,

heard together and disposed-off by way of this common order for the sake of convenience.

ITA Nos.178 to 181/Vizag/2013: (A.Y. 2006-07 to 2009-10)

2. The sole issue involved in these appeals is related to the addition made by the A.O. amounting to ₹ 50,000/- of agricultural income. During the assessment proceedings, the A.O. found that the assessee had admitted agricultural income of ₹ 3.00 lakhs. Since the assessee did not produce any documentary evidence regarding agricultural income, the A.O. disallowed ₹ 50,000/- out of agricultural income on ₹ 3 lakhs and added back to the income.

3. Aggrieved by the order of the A.O., the assessee went on appeal before the CIT(A) and the Ld. CIT(A) confirmed the addition made by the A.O. Against the order of the Ld.CIT(A) the assessee is in appeal before us.

4. During the appeal hearing, the Ld. A.R. submitted that the assessee owns agricultural land of 21.36 acres and the assessee had submitted pattadar pass books, VAO certificate evidencing the agricultural land holdings. The VAO certified that the assessee is cultivating Eucalyptus garden which is used for the paper and timber industry and average income for 3 years is ₹ 70,000/- per acre which works out to approximately ₹ 23,500/- per annum. In 4.30 acres it is

certified by the VRO that the assessee is cultivating mango garden and average income per year is ₹ 24,000 per acre. In a total the assessee owns 21.36 acres and as per the certificate given by the VRO/VAO, the average agricultural income per year would be more than ₹ 3 lakhs. Though the A.O. accepted the agricultural income of ₹ 2.5 lakhs, he did not accept the balance amount of ₹ 50,000/- and made the disallowance on estimation basis without assigning any reason. Since the assessee is owning 21.36 acres and the VRO and VAO have certified that the assessee is cultivating the Eucalyptus gardens and mango gardens, we do not see any reason to suspect the agricultural income admitted by the assessee. The Ld. D.R. did not bring any evidence establish that the agricultural income is less than ₹ 3.00 lakhs for the land holding of 21.36 acres held by the assessee. Therefore, we do not find any reason to sustain the addition made by the A.O. and the same is deleted. Accordingly, we set aside the order of the CIT(A) and allow the appeals of the assessee.

5. The assessee raised additional ground with regard to the validity of assessment without the incriminating material. Since we have allowed the appeals of the assessee on merits, we consider it not necessary to adjudicate the assessee's ground on technical issue of validity of assessment, accordingly, the additional ground raised by the

assessee in ground No.4 with regard to the validity of assessment is dismissed.

6. In the result, the appeals filed by the assessee in ITA Nos.178 to 181/Vizag/2013 are partly allowed.

ITA No.182/Vizag/2013:

7. Ground No.1 is general in nature, which does not require specific adjudication.

Ground No.2 is related to the addition made by the A.O. amounting to ₹ 50,000/- with regard to the agricultural income. This issue has been discussed in the assessee's case in earlier paragraphs for the assessment years 2006-07 to 2009-10 and allowed the appeal of the assessee. Therefore, the order of the Ld. CIT(A) is set aside and the addition made by the A.O. is deleted and assessee's appeal on this ground is allowed.

8. Ground No.3 & 4 are related to the addition made by the A.O. relating to the gold and jewellery u/s 69 of the Income Tax Act, 1961 (hereinafter called as 'the Act'). During the course of search u/s 132 of the Act in group cases of SLC Projects Ltd., the residential premises of Shri Subba Raju was also searched and the incriminating material evidencing the unexplained investments, documents was found and

seized. The assessee is wife of Sri Subba Raju and during the course of search, the gold, jewellery weighing 1190 gms. was found to be belonging to the assessee. During the course of assessment proceedings, the assessee was asked to explain the sources for the investment of gold and jewellery and the assessee explained that a search u/s 132 of the Act was conducted in the assessee's business premises on 27.4.1988 and the gold and jewellery of 349 gms was found which is said to be carried forward from 1988. The remaining gold was said to be purchased by the assessee or acquired by inheritance. Since the assessee could not furnish any documentary evidence, the A.O. allowed 500 gms as per the Board circular and brought to tax the remaining 690 gms valued around ₹ 8,85,960/- u/s 69 of the Act.

9. Aggrieved by the order of the A.O., the assessee went on appeal before the CIT(A) and the Ld. CIT(A) confirmed the order of the A.O.

10. During the appeal hearing, the Ld. A.R. submitted that 349 gms gold was found at the time of search on 27.4.1988, which required to be excluded from the gold found weighing around 1190 gms. With regard to the remaining jewellery, the assessee explained that the gold was received as a gift from his mother and some gold was received from mother-in-law and gold coins were purchased from Bank of India on

6.8.2008 weighing 120 gms and ICICI Bank on 19.10.2006. The Ld. A.R. submitted that all the details were furnished before the A.O. and duly accounted in the books of accounts and sources were explained for acquiring the gold jewellery. However, on careful verification of assessment order, the A.O. stated that the assessee has not furnished any evidence to establish that the gold jewellery of 690 gms was acquired from the explained sources. Therefore, in the interest of justice, we are of the considered opinion that the issue should be remitted back to the file of the A.O. to verify the sources of gold jewellery acquired by the assessee and decide the issue afresh on merits. Accordingly the issue is set a side and remitted back to the file of the AO to decide on merits.

11. In the result, the appeal of the assessee in ITA No.182/Vizag/2013 is allowed for statistical purposes.

The above order was pronounced in the open court on 9th Mar'18.

Sd/-

(वी. दुर्गराव)

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER लेखा सदस्य/ACCOUNTANT MEMBER

विशाखापटणम /Visakhapatnam:

दिनांक /Dated : 09.03.2018

VG/SPS

Sd/-

(डि.एस. सुन्दर सिंह)

(D.S. SUNDER SINGH)

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. अपीलार्थी / The Appellant – P. Yasoda, 50-104-2, Plot No.A-20, TPT Colony, Seethammadhara, Visakhapatnam
2. प्रत्यार्थी / The Respondent – The ACIT, Central Circle-2, Visakhapatnam
3. आयकर आयुक्त / The CIT (Central), Hyderabad
4. आयकर आयुक्त (अपील) / The CIT (A)-I, Hyderabad
5. विभागीय प्रतिनिधि, आय कर अपीलीय अधिकरण, विशाखापटणम / DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

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Sr. Private Secretary
ITAT, VISAKHAPATNAM