

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

' A ' BENCH : CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री अब्राहमपी.जॉर्ज, लेखा सदस्य केसमक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI ABRAHAM P GEORGE, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.Nos.1445,1442 &1444/CHNY/2016

निर्धारण वर्ष /Assessment years : 2003-04, 2005-06 & 2011-12

Mr.K.C.Palanisamy,
78, Cheran Towers,
Govt.Arts College Road,
Coimbatore 641 018.

Vs. The Deputy Commissioner of
Income Tax,
Company Circle -1(1),
Coimbatore.

[PAN AFEP 8162 K]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mr.S.Sridhar,Advocate
: Mr.AR.V.Sreenivasan,JCIT, D.R

सुनवाई की तारीख/Date of Hearing

: 05-03-2018

घोषणा की तारीख /Date of Pronouncement

: 06-03-2018

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

All the appeals of the assessee are directed against the respective orders of the Commissioner of Income-tax (Appeals)-1, Coimbatore and pertain to assessment years 2003-04, 2005-06 & 2011-12. Since common issue arises for consideration in all these appeals, we have heard the same together and disposing off the same by this common order.

2. For the assessment years 2003-04 & 2005-06, the assessee is challenging penalty levied u/s.271(1)(c) of the Income-tax Act,1961 (in short 'the Act') by the Id. Assessing Officer, which is confirmed by the Ld.CIT(A). The assessee disclosed agricultural income and claimed exemption.

3. In fact, for assessment year 2003-04 the assessee disclosed agricultural income of ₹22,92,400/-, out of which the Id. Assessing Officer had taken ₹2,89,565/- as income from agriculture activities and balance of ₹20,02,840/- was assessed as unexplained cash credit in the books of accounts of the assessee u/s.68 of the Act. Similarly, for assessment year 2005-06, the assessee has claimed agricultural income of ₹ 24,87,650/-, out of which the Id. Assessing Officer accepted the agricultural income to the extent of ₹6,75,628/- and balance of ₹18,12,020/- was treated as unexplained cash credit in the books of accounts. The question arises for our consideration is when the assessee disclosed the income and claimed as agricultural income and the Id. Assessing Officer treated a part of the income as income not from agriculture, can there be a concealment of income or furnishing inaccurate particulars of income? This Tribunal is of the considered opinion that the assessee disclosed the entire income and claimed exemption as provided in the provisions of the Act. Merely because there was a difference of opinion in estimating the agricultural income between the assessee and the Id. Assessing Officer, it cannot be said that there was a concealment of income or furnishing inaccurate particulars of income. It is not the case of the Revenue that there was no income from

agriculture activities. The fact that the assessee is holding agricultural land and cultivating the same is not in dispute. Only dispute is regarding quantum of income from agricultural activities. In those factual circumstances, this Tribunal is of the considered opinion that the levy of penalty is not warranted. Accordingly, the orders of the lower authorities are set aside and penalties levied u/s.271(1)(c) of the Act and sustained by the Ld.CIT(A) for assessment years 2003-04 & 2005-06 are hereby deleted.

4. Now coming to assessment year 2011-12, the assessee disclosed ₹21,32,540/- as income from agriculture. However, the Id. Assessing Officer disallowed the entire claim of the assessee by treating the same as unexplained income. When the Id. Assessing Officer accepted the agricultural income for assessment years 2003-04 & 2005-06, it is not known why the Id. Assessing Officer is disallowing the entire claim of assessee. The Id. Authorized Representative of assessee submits that the land holding of the assessee is not in dispute and the cultivation of land is also not in dispute, therefore, the AO is not justified in disallowing the claim of agricultural income. This Tribunal is of the considered opinion that the AO has to verify the land holdings for assessment year 2011-12 and the nature of cultivation, thereafter decide the issue of agricultural income. Accordingly, the orders of the authorities below are set aside and the entire issue is remitted back to the file of Id. Assessing Officer. The Assessing Officer

shall re-examine the issue and bring on record the land holding of the assessee and the nature of cultivation after verifying the Adangal Register of the village, and thereafter decide the matter on merit on the basis of material that may be filed by the assessee after giving proper opportunity of hearing to the assessee.

5. In the result, the appeals of the assessee for assessment years 2003-04 & 2005-06 are allowed and the appeal of the assessee for assessment year 2011-12 is allowed for statistical purposes.

Order pronounced on 06th March, 2018, at Chennai.

Sd/-
(अब्राहमपी.जॉर्ज)
(ABRAHAM P GEORGE)
लेखा सदस्य /ACCOUNTANT MEMBER

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

चेन्नई/Chennai
दिनांक/Dated: 06th March, 2018
K S Sundaram

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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