

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT
(CONDUCTED THROUGH E-COURT AT AHMEDABAD)
BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
And WASEEM AHMED, ACCOUNTANT MEMBER

आयकर अपील सं./ITANo.84/RJT/2017
निर्धारण वर्ष/Asstt. Year: 2012-2013

Shri Maulesh Dahyabhai Ukani, "Pushkar" Panchvati Society, B/H. Bhakti Nagar Railway Station Rajkot. PAN: AAFPU5748N	Vs.	A.C.I.T, Circle-2(1), Rajkot
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(Applicant)	(Responent)
Assessee by :	None
Revenueby :	Shri Praveen Verma, Sr. DR

सुनवाई की तारीख/Date of Hearing : 27/08/2018
घोषणा की तारीख /Date of Pronouncement: 10/09/2018

आदेश/ORDER

PER RAJPAL YADAV, JUDICIAL MEMBER:

The assessee is in appeal before the Tribunal against the order of Ld.CIT(A) dated 08/12/2016, passed for the assessment year 2012-13.

2. Assessee has raised following grounds of appeals.

1. The Ld. CIT(A) has erred in law and on facts in upholding the addition of Rs.6,52,448/- made by the AO by reducing the agriculture income of Rs.61,54,161/- to Rs.55,01,713/- by wrongly applying and not confirming the decision of ITAT, Rajkot mentioned in the order.

2. *He has erred in law and on facts in confirming the addition on the ground that assessment is on agreed basis in as much as that there remind no such agreement as the condition of the appellant has not been accepted by the AO.*
3. *He has erred in law and on facts in not considering facts that no discrepancy has been found in the books of account maintained & produced before AO by the assessee for agriculture income.*
4. *He has erred in law and on facts in not considering the contention of the assessee before the AO that no addition can be made on technicalground.*
5. *On the facts the appeal of the assessee ought not to have been dismissed on the so called ground that assessee has agreed for addition without properly appreciating the facts and attending circumstances thereto.*
6. *He has erred in law and on facts in confirming the addition considered ^has concealed income from other sources in as much as that there was no concealed income.*
7. *On the facts the return income ought to have been accepted in to without any additions.*
8. *The appellant craves leave to add, to alter and or modify any ground of appeal.*

3. In response to the notice of hearing no one has come in present on behalf of the assessee. With the assistance of Ld.DR, we have gone through the record carefully and proceed to decide this appeal *ex party* qua assessee. It emerges out from the record that assessee has filed its return of income declaring total income of Rs.68,86,375/-. On scrutiny of the accounts it reveals that assessee owned agriculture land of 11.62 hectare. He has shown gross agriculture receipts of Rs.74,34,748/- and after taking expenses of Rs.12,80,587/- he has shown net agriculture income at Rs.61,54,161/-. Ld.AO observed that agriculture expenses in the ratio of gross receipts is 17.22 percent which is on lower side. He further observed that in earlier years such agriculture expenses were estimated at 26% of the gross agriculture receipts. Therefore, in this year also he treated the gross agriculture expenses at 26% of gross receipt and disallowed from the gross agriculture income. This

enhancement of expenditure were treated as income from other sources and an addition of Rs.6,52,448/- was made.

4. Appeal to the CIT(A) did not bring any relief to the assessee.

5. On due consideration of the above facts and circumstances we are of the view that Ld.AO failed to appreciate the whole controversy. Assessee is an agriculturist, he has disclosed gross agriculture receipts vis-à-vis net agriculture receipts. The Ld.AO without assigning any reasons observed that in an agricultural activity an assessee should have estimated 26% of the gross receipts towards agricultural expenses because in his understanding this much expenditure were considered in earlier year. To our mind he totally failed to appreciate the activity itself. The expenditure in an agricultural activities cannot be calculated according to the mathematical formula. For example the assessee has grown groundnuts in a particular year, there was deficit in rain and he irrigated his groundnuts with the help of tube well, the expenditure on account of fuel would be higher. Similarly, in a particular year there is attack of insect and assessee was required to spray pesticides again expenditure would be on higher side. In other words outcome of agricultural produce is dependent upon weather condition, natural calamities etc. The AO should also demonstrate what is the other source of income to a farmer before partly treating his agriculture income as income from other source, if a assessee is only agriculturist and he has no other source of income then without referring those circumstances which could give rise to earning of income from other source, how, Ld.AO treated such agriculture income as income from other sources. All these aspects are missing in the assessment order. Therefore, we are of the view that addition made to the total income of the assessee are not

sustainable, we direct the AO to treat the agriculture income of the assessee at Rs.61,54,161/- disclosed by the assessee.

6. In the result, appeal of the assessee is allowed.

Order pronounced in the Court on 10thSeptember,2018 at Ahmedabad.

-Sd-
(WASEEM AHMED)
ACCOUNTANT MEMBER

(True Copy)

Ahmedabad; Dated 10/09/2018

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

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

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad