

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "B", HYDERABAD

BEFORE V. DURGA RAO, JUDICIAL MEMBER
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA Nos. 1073 to 1077/Hyd/2018		
Assessment Years: 2003-04, 2005-06 and 2007-08 to 2009-10		
A.S. Leasing & Finance Limited, Hyderabad. PAN: AACCA 2305 H	Vs.	Income Tax Officer, Ward-1(2), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri S. Rama Rao	
Revenue by:	Smt. M. Narmada, DR	
Date of hearing:	08/03/2019	
Date of pronouncement:	15/03/2019	

ORDER

PER V. DURGA RAO, J.M.:

All the captioned five appeals are filed by the assessee against the different orders of CIT(A)-1, Hyderabad for the assessment years 2003-04, 2005-06 and 2007-08 to 2009-10. The grounds raised by the assessee and the issues involved in all these appeals are identical, the only differences is in figures, and therefore, they are clubbed, heard combinedly and disposed of in this consolidated order. For the sake of reference and adjudication purpose, the grounds of appeal raised by the assessee for the assessment year 2003-04 are extracted as under:-

- “1. *The order of the Ld. CIT(A) is erroneous both on facts and in law.*
2. *The Ld. CIT(A) erred in confirming the addition of Rs. 3,03,744/- made by the Assessing Officer under the head “income from other sources” disbelieving the income from agriculture as admitted in the return of income filed.*
3. *Any other ground or grounds that may be urged at the time of hearing.”*

2. Grounds no.1 and 3 are general in nature and therefore, the same are dismissed. Ground no.2 relates to the addition of Rs. 3,03,744/-.

3. Brief facts of the case are that the assessee-company is engaged in the business of finance and deriving interest income from lending against LIC policies. A search and seizure operation u/s 132 of the Act was conducted at the business premises of the assessee on 17/09/2008. Consequent to the search, a notice u/s 153A of the Act was issued for the A.Y. 2003-04 and accordingly the case was selected for scrutiny and the assessment was completed u/s 143(3) of the Act by treating the agricultural income as income from other sources of the assessee. On appeal, the CIT(A) confirmed the order of the A.O. During the first round of proceedings, the ITAT set-aside the order passed by the CIT(A) and directed the A.O. to verify the agricultural income of the assessee and complete the assessment in accordance with law. Consequent to the order passed by the ITAT, the A.O. has passed the assessment order

u/s 143(3) r.w.s 254 of the Act on 30/06/2016. While passing the assessment order, as per the directions of the ITAT, the A.O. has issued letters to the assessee dated 26/10/2015 and 02/05/2016 and requested the assessee to produce the evidence in support of its claim of agricultural income. Considering the assessee's continuous non-compliance to the above letters and also on the date of next hearing i.e., 16/11/2015, the A.O. granted one more opportunity to the assessee and requested to furnish the certain details viz., (i) details of agricultural land i.e, pattadar pass books etc in the name of the assessee-company; (ii) Documentary evidence such as lease agreement or any confirmation from the cultivator or proof of cultivation of the land and agricultural produce as a supporting evidence to prove that agricultural activity was carried out during the relevant period and (iii) supporting evidence for sale of agricultural produce i.e., vouchers / receipts etc for the agricultural income claimed of Rs. 3,03,744/-. In response, the Authorised Representative of the assessee appeared before the A.O. and submitted the copies of sale deeds and no other documentary evidence to prove that the agricultural activity was carried by the assessee and derived income therefrom. Therefore, A.O. noted that the assessee-company owns some agricultural land to the extent of 29 Acres and 4 guntas, as reflected in its balance

sheet, and showing income from agricultural activity but the assessee could not produce any substantial evidence for carrying out agricultural activities other than the possession of agricultural land. After giving sufficient opportunities to the assessee to substantiate its claim, considering the assessee's failure to furnish and evidence in support of the same, the A.O. treated the income of Rs. 3,03,744/- as "income from other sources" and brought it to tax and the assessed income was determined at Rs. 3,26,194/-.

4. Aggrieved, assessee preferred an appeal before the CIT(A), who dismissed the appeal. Aggrieved, assessee is in further appeal before the Tribunal by raising the above mentioned grounds of appeal.

5. Before us, Learned Counsel for the Assessee submitted that the A.O. has not conducted any enquiry regarding the verification of agricultural income of the assessee as directed by the ITAT in the first round of proceedings and therefore, the order passed by the A.O. has to be set-aside. It is further submitted that the assessee has carried out agricultural operations by engaging a third party and therefore, the income derived from such agricultural activity has to be considered as agricultural income of the assessee. It is also submitted that

during the search, no material has been found to show that the assessee has not carrying any agricultural activity and therefore, in the absence of any incriminating material, the income derived by the assessee from the agricultural activity has to be considered as 'agricultural income' and not from 'other sources'. Learned Counsel for the Assessee filed a copy of the assessment order for the A.Y. 2005-06 and submitted that in that year the agricultural income declared by the assessee was accepted by the Revenue and therefore, this year also the income declared by the assessee may be considered as agricultural income as claimed by the assessee.

6. On the other hand, Learned Departmental Representative, supported the orders of the authorities below and submitted that the onus is on the assessee to prove that the income earned by the assessee is agricultural income and in the present the assessee has failed to discharge its onus to show that the income of Rs. 3,03,744/- represents agricultural income and therefore, the A.O. has correctly treated the income from other sources. Learned DR relied upon the decision of the Hon'ble Rajasthan High Court in the case of Gopi Ram Lia vs. CIT [1997] 225 ITR 320.

7. We have heard both the parties and perused the material available on record. Originally the assessment was completed u/s 143(3) of the Act wherein the A.O. noted that the assessee has agricultural land to the extent of 29 Acres 4 Guntas and claimed Rs. 3,03,744/- as agricultural income which is exempt from tax. In the absence of any document / evidence to show that the income is derived from agricultural activity, the A.O. rejected the claim and brought it to tax under the head 'income from other sources' and on appeal, the CIT(A) confirmed the order of the A.O. During the first round of proceedings before the ITAT, the Tribunal set-aside the order of the CIT(A) and remitted the issue back to the file of the A.O. with a direction to verify the agricultural income as claimed by the assessee. Consequent to the directions of the Tribunal, A.O. granted sufficient opportunities and requested the assessee to furnish Pattadar Pass Book, documentary evidence to show that the land was given on lease or any confirmation from the cultivator or proof of cultivation of the land and agricultural produce as a supporting evidence. After repeated non-compliance to the A.O.'s requests, the assessee has not submitted any documentary evidence except copies of sale deeds in support of its claim. In the absence of any supporting evidence such as details of the third party cultivators who carried out the

agricultural operations, what are the payments made by the assessee, details of crops cultivated during the year, details of expenses incurred in relation to cultivation, agricultural produce etc., A.O. rejected the assessee's claim of agricultural income and added the same under 'income from other sources'. Before the CIT(A) also, the assessee could not improve his case and even before us the assessee failed to substantiate its claim of agricultural income and has not been able to show any supporting evidence to prove that the assessee has carried out the agricultural activity either by itself or by third party. Therefore, we are of the opinion that the assessee has failed to discharge the burden casted upon it to show that the assessee has carried agricultural activities and derived the agricultural income. In so far as the argument of the Learned Counsel for the Assessee that the assessee has carried out the agricultural activity through third party, the assessee has not filed any details of expenditure incurred and therefore, the same is rejected. Another argument of the assessee is that during the course of search, no material was found to show that assessee has not carried any agricultural operations. It is correct. However, in the search, no material was found that the assessee has incurred any expenditure which shows that the assessee has not carried any agricultural activities and thus, this argument

is also rejected. The Learned Counsel for the Assessee's argument that in the A.Y. 2005-06, the A.O. has considered the agricultural income earned by the assessee is concerned, it is the duty of the assessee to substantiate his case that in the year under consideration also the assessee has carried out the agricultural activities and merely based on the earlier year / one year, it cannot be said that the assessee has carried out the agricultural activities in the subsequent years. Therefore, this argument of the Learned AR is also rejected. In the case of Gopi Ram Lila (supra), the Hon'ble Rajasthan High Court has held that it is the duty of the assessee to prove that the income earned by the assessee is agricultural income. In view of the above facts and circumstances of the case and respectfully following the decision of the Rajasthan High Court in the case of Gopi Ram Lila (supra), we are of the opinion that the income offered by the assessee as agricultural income cannot be accepted and find no reason to interfere with the decision of the CIT(A). Ground no.2 raised by the assessee is dismissed.

8. Since the assessee has raised similar grounds of appeal in all the appeals under consideration, our decision given in the assessee's appeal for the A.Y. 2003-04 applies to the other appeals filed for the AYs 2005-06 and 2007-08 to 2009-10. Resultantly, all the appeals filed by the assessee are dismissed.

9. In the result, all the appeals filed by the assessee are dismissed.

Pronounced in the open Court on 15th March, 2019.

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Hyderabad, Dated: 15th March, 2019

OKK

Copy to:-

1)	A.S. Leasing & Finance Limited, Flat No. 601, Khanchand Towers, H.No.6-3-190/1, Road No.1, Banjara Hills, Hyderabad.
2)	ITO, Ward-1(2), IT Towers, AC Guards, Hyderabad.
3)	The CIT(A)-1, Hyderabad.
4)	The Pr. CIT-1, Hyderabad
5)	The DR, ITAT, Hyderabad
6)	Guard File