

IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND SHRI G MANJUNATHA, ACCOUNTANT MEMBER

ITA No.2570/Bang/2018

Assessment year : 2014-15

Shesha Naik Ramappa, S/o Shesha Naik, Siganduru Hosahalli, Thumari Post Sagar Taluk, Shivamogga-577 401.  PAN – BAZPR 7247A.	Vs.	The Dy. Commissioner of Income-tax, Circle-7(1)(1), Bengaluru
APPELLANT		RESPONDENT

Appellant by	:	Shri Srinivasa Kamath, C.A
Respondent by	:	Shri M Narasimha Raju, JDIT

Date of hearing	:	14.03.2019
Date of Pronouncement	:	.04. 2019

**ORDER**

*Per G Manjunatha, Accountant Member*

This appeal filed by the assessee is directed against the order of the CIT(A)-7, Bengaluru dated 14/6/2018 and it pertains to asst. year 2014-15.

2. The assessee has raised the following grounds of appeal:-

*"1. The impugned orders of the authorities below are opposed to the law and facts of the case.*

*2. The impugned orders are against the provisions of Law/Act and has been made in violation of the principles of natural justice and equity.*

*3. On the facts and circumstances of the case, the CIT(A) erred in passing exparte order dt 14-06-2018*

*4. On the facts and circumstances of the case, the Learned CIT(A) erred in upholding the order of the Assessing Officer and in estimating agricultural produce and expenses.*

*5. On the facts and circumstances of the case, the Learned CIT(A) erred in upholding the addition of agricultural income of Rs.32,41 450/- as income from other sources.*

*6. On the facts and circumstances of the case, the Learned CIT(A) erred in upholding the addition of the addition of Rs.10,75,000/-*

*7. The appellant craves for leave to, add to, delete from or amend the grounds of appeal.”*

3. The brief facts of the case are that the assessee is an individual field his return of income for asst. year 2014-15 on 26/2/2015 declaring a total income of Rs.9,72,130/- and agricultural income of Rs.55,19,900/-. The case has been selected for scrutiny and notices u/s 143(2) and 142(1) of the Act, were issued. In response to notices, the authorized representative of the assessee appeared from time to time and filed various details, as called for. During the course of asst. proceedings, the AO noticed that there was an drastic raise in the agricultural income declared for the asst year 2014-15 which was at Rs.55,19,900/- when compared to previous year wherein the assessee had declared agricultural income of Rs.3,90,000/-. The AO further noticed that there was no substantial addition to the land holdings of the assessee during the relevant asst. year when compared to the previous year, therefore,

called upon the assessee to furnish bills and vouchers in respect of agricultural income. In response, the assessee has furnished 4 bills from M/s Jagadamba Trading Company, Sagar and M/s Achal Traders, Sagar and claimed that the agricultural income consist of sale of pepper and arecanut. The AO issued letters to the purchasers asking for confirmation for sales made by the assessee, but letters issued by the AO returned unanswered with remark no such address. The AO after considering the details filed by the assessee came to the conclusion that even though there is no increase in the extent of land holdings by the assessee for the year under consideration, but there is a drastic increase in agricultural income declared which is disproportionate to the land holding and accordingly, came to the conclusion that agricultural income declared by the assessee is excessive and unreasonable and hence, determined agricultural income on the basis of his estimation by taking into account land holdings in the name of the assessee and determined total agricultural income of Rs.25,75,450/-. The balance amount of Rs.32,42,450/- has been treated as income from other sources. The relevant findings of the AO are as under:-

*"4c. It is pertinent to mention here that the original bills furnished were with regard to sale of pepper and arecanut. However, when the letters to the purchasers were returned unserved, the assessee has been now claiming that the produce is rubber, which is not acceptable in the absence of any conclusive evidence furnished. It is to be mentioned here that the assessee has only furnished copies of RTCs wherein the assessee has grown rubber in only about 9 acres altogether. In the balance of lands only Arecanut is grown. On the basis of RTCs furnished, it is seen that the assessee has land holdings of about 16.05 acres only although the assessee claims that he has land holdings of 30 acres 36 guntas. It is seen that in respect of about 14 acre 31 gunta of land of land belonging to Smt. Jayamma and the agricultural*

*income is also offered for tax by her in her return of income.*

*4d. In the absence of any bills and vouchers in respect of the sale of Agricultural produce, only estimation of agricultural income can be made as the bills produced are not genuine. Rubber farming has not been commercially viable for the part many years. Hence, even if higher estimate of 1 lakh per acre is considered, the assessee will be getting a gross income of Rs. 1,00,000/- on rubber grown of 1 acre of land. Although the assessee has furnished RTCs in respect of rubber being grown in 9 acres of land, it is pertinent to mention here than in respect of 8 acres of land, the assessee is not the owner and the land belongs to Smt. Jayamma. Hence, only 1 acre of land is belonging to the assessee where Rubber is grown by him. Considering the possession of the lands of the assessee, which is in and around Sagar Taluk, higher quality arecanuts are not grown. It is only red gotu and rashi which are of inferior quality. In the balance of 15 acres 05guntas of land, it is estimated that the assessee has grown about 150 quintals of arecanut estimating 10 quintals of yield per acre. Even at the highest market rate of Rs. 23,890/- per quintal, the gross receipts from arecanut comes to only Rs. 35,83,5001-. Thus, the assessee's gross receipts from Agricultural activities can be fairly estimated to be in the range of about Rs.36,83,5001-. Expenses at the rate 30% of the gross receipts has to be excluded from the amount arrived at. Thus, the assessee's net agricultural income can be fairly estimated to be about Rs.25, 78,450/- R's.36,83,500/- - Rs.11,05,050/-). No agricultural income from pepper is considered for the estimation of the Agricultural Income of the assessee, as the RTCs furnished do not mention anything about the pepper crop being grown and it has already been established that no such sales of pepper has been made by the assessee as the bills furnished during the course of assessment proceedings have been proved not genuine.*

*4e. It is seen that in the computation statement furnished during the course of assessment proceedings, the assessee has worked out the*

*agricultural income g A's. 58,19,9001- and in the return of income filed, the same has been shown at A's. 5, 19,900/-. Hence, agricultural income offered by the assessee is taken at A's. 58,19,9001- only. Thus, an amount of only A's.25, 78,450/- can be fairly estimated to be the agricultural income of the assessee. The balance of A's. 32,41,450/- has to be treated as income from other sources."*

4. Further, the AO has also made additions towards unexplained cash deposits in SB account maintained at Vijaya Bank Ulavi i Branch on the ground that the assessee has failed to explain sources for cash deposits found in banking account. The relevant observations of the AO are as under:-

*"5 On verification of the details furnished during the course of scrutiny assessment proceedings, it was noticed that the assessee was having an SE account vide A/c no.121401010001065 at Vijaya Bank Ulavi Branch. When the assessee was requested to furnish details of sources for the cash deposits amounting to Rs.10,75,000/- made in this particular account, vide letter dated 2511212016, the assessee has stated that - "Whatever deposited in Vijaya Bank, U/a vi is part of the cash in hand of the group. It might be by oversight not accounted fully. They are not maintaining any item wise account books and are only notes which are presented to us and sometimes they forget one or two items and this is one of them. This is the money of each member of the family jointly held by Sri Ramappa who will manage the total affairs with the assistance of Sri Ravikumar, his only son". From the explanation offered it is clear that neither the bank account nor the sources for the deposits are available with the assessee and the assessee is trying to pass the onus on to the members of the family, for such cash deposits. In the absence of any conclusive evidence to the contrary furnished by the assessee, the cash deposits amounting to Rs. 10,75,000/- made in the said bank account which has not been reflected in the*

*Balance Sheet of the assessee, has to be treated as unexplained income of the assessee for the A Y 2014- 15."*

5. Aggrieved by the asst. order, the assessee preferred an appeal before the CIT(A).

6. Before the CIT(A), the assessee neither appeared nor furnished any details despite the CIT(A) has given opportunity of hearing to the assessee. Therefore the CIT(A) dismissed the appeal filed by the assessee and upheld the findings of the Id AO for disallowance of agricultural income and also additions made towards cash deposits found in savings bank account maintained at Vijaya Bank. The relevant observation of the Id CIT(A) are as under:-

*"5a. I have perused the order of the AO. As said earlier, there has been no compliance from the appellant nor any written submissions filed but for raising a ground that "On the fact and circumstances of the case, the learned Assessing Officer, erred in estimating the agricultural produce and also in estimating agricultural expenses of 30%". The order of the AO is very detailed and self-explanatory. The reasons as to why he had to estimate incomes and the basis on which the same was done is very clearly explained. The appellant has challenged this action, but has not been able to bring on record as to why the order of the AO should be disturbed. The order of the AO is very cogent and reasoned order. In my opinion, no disturbance is called for. Thus, the ground fails."*

*6a. I have perused the order of the AO. As said earlier, there has been no compliance from the appellant nor any written submissions filed but for raising a ground that "On the fact and circumstances of the case, the learned Assessing Officer, erred in adding cash deposits of Rs.10, 75,000/- as unexplained income."*

*No other written material or copy of the Bank Statements nor any averment has to the nature of the Deposits have been furnished.”*

7. The first issue that came up for our consideration from assessee's appeal is additions towards agricultural income. The Id AR for the assessee submitted that the Id CT((A) having accepted the fact that the assessee has carried out agricultural operations in land measuring 30 acres 16 guntas, but failed to consider the land holdings in the name of brother's wife of assessee merely for the reason that the land holdings is not in the name of the assessee. The AR further submitted that the assessee has filed complete details of land holdings as per which the assessee has cultivated agricultural operations in an extent of 30 acres 16 guntas, which includes 16 acres land in the name of his brother's wife. The assessee being member of joint family cultivated land belonging to his brother's wife and resulted agricultural income has been offered in his individual capacity. In this regard, he had filed copies of sale bills of agricultural produce to local sales men. Although, the letters issued to the traders have returned bank, but fact remains that the assessee resides in the remote place where the agricultural produce were sold in the place of the assessee. He, further submitted that when land holdings details along with sale bill are filed to prove agricultural income, merely for the reason letter issued to the traders have been returned, the genuine agricultural income declared by the assessee which is supported by necessary evidences cannot be considered as income from other sources.

8. The Id DR, on the other hand strongly supported the orders of the Id CIT(A).

9. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. Admittedly the AO has never disputed the fact that the assessee has carried out agricultural operations which is evident from the findings of the AO, where he had partially accepted agricultural income declared by the assessee, but, scaled down agricultural income declared by the assessee for the reason that although the assessee claims to have owned 30 acres 16 gunta land, in fact actual land holding is 14 acres and 16 guntas only. The AO did not considered 16 acres land in the name of assessee brother wife Smt. Jayamma, who is a widow and living with assessee as joint family member. Except this, no other adverse comments had been made in respect of actual agricultural operations carried out by the assessee. The AO has allowed a sum of Rs. 25, 78, 450/- (net of expenses) out of sum of Rs. 55,19,000/- agricultural income declared by the assessee. The AO had arrived at above figure on the basis of his own calculations by taking into account land holdings in the name of the assessee ignoring land holding in the name of assessee brother wife smt. Jayamma. Further, he had taken 10 quintal average yield of arecanut per acre and then adopted average rate of Rs. 23, 890/- per quintal to arrive at gross income of Rs. 35,83,5001/-. Out of gross income, allowed 30% deduction towards expenses to determine net agricultural income of Rs.25,78,450/-. We find that, the AO had resorted to his own method of determination of agricultural income without specifying the basis for his estimation and also source of information. Further, arecanut crop in the locality is not uniform and which is depend upon various factors including type of land and intensity of agricultural operations carried out by the assessee. Similarly, the AO has taken average rate of Rs. 23,890/- per quintal without specifying any basis and source of information. In our view and as per the submission of the d. AR for the assessee, average yield

and rate considered by the AO is quite contrary to the prevailing situation in the field of arecanut crop, because which is considered one of most profitable crop and which gives very good yield and rate to the farmers. In fact, one go by conservative estimate, one acre of arecanut plantation would give net income of Rs. 2,50,000 to Rs. 3,00,000/- per annum. Further, the AO having been accepted the fact that the assessee has cultivated agricultural operations, but failed to consider the land holdings in the name of assessee's brother's wife who is residing along with the assessee being a member of joint family. On the other hand, the assessee has filed complete details including land holding records to prove that the assessee is carrying out agricultural operations in the land belongs to his brother's wife. Therefore we are of the considered view that there is no merit in the findings of the AO while disallowing part of agricultural income. Further, unless the AO brought out some material to prove that the assessee has converted his unaccounted income in the form of agricultural income, genuine agricultural income which is supported by necessary evidences cannot be disregarded merely for the reason that the land holding is not in the name of the assessee, when there is no dispute with regard to carrying out agricultural operations. The CIT(A) without appreciating these facts simply upheld the findings of the AO. Hence, we reverse the findings of the Id CIT(A) and direct the AO to delete the additions made towards disallowance of agricultural income

10. The next issue that came up for consideration is additions towards cash deposits of Rs.10,75,000/- found in savings bank account at Vijaya Bank Ulavi Branch. The AO has made additions towards cash deposits on the ground that the assessee has failed to explain source for such cash deposits. It is the claim of the assessee that cash deposits found in

savings bank at Ulavi branch is out of agricultural income and collection from marriage hall and which cannot be individually identified as received from agricultural operations and receipts from marriage hall.

11. Having heard both the sides and considered the material on record, we find merits in the arguments of the assessee for the reason that when assessee is having huge receipts from agricultural operations, the AO ought to have given credit for income declared under the head 'agricultural income' to cash deposits found at Vijaya Bank Ulavi Branch. It is not the case of the AO that the assessee is not having any source of income to explain cash deposits found in bank account. Admittedly, the assessee has declared huge agricultural income of Rs.55,19,900/- for the year under consideration. The assessee has also declared business income of Rs.9,72,130/- from Marriage contracts. When source is available in the form of agricultural income and business income, unless the AO establishes with evidences that the source has been deployed elsewhere, the availability of source to explain cash found in bank account cannot be ignored. In this case, the assessee has deposited a sum of Rs.10,75,000/- to the SB account maintained at Vijaya Bank as against this the assessee's total income for the year under consideration is Rs.55,19,900/- from agricultural income and Rs.9,72,130/- from business income. The income earned for the year is much more than the amount of cash deposits found in bank account. Therefore, we are of the considered view that the AO was erred in making additions towards cash deposits found at Vijaya Bank Branch, despite the assessee has explained source for such cash deposits. The Id CIT(A) without appreciating these facts simply upheld the additions made by the AO. Hence, we reverse the findings of the Id CIT(A) and direct the AO to delete the additions made towards cash deposits found at Vijayba Bank, Ulavi Branch.

12. In the result, appeal filed by the assessee is allowed

Pronounced in the open court on **April, 2019.**

**( N.V VASUDEVAN)**  
Vice President

**( G MANJUNATHA)**  
Accountant Member

Bangalore,  
Dated, April, 2019.  
/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore.

1. Date of Dictation .....
2. Date on which the typed draft is placed before the dictating Member .....
3. Date on which the approved draft comes to Sr. P.S .....
4. Date on which the fair order is placed before the dictating Member .....
5. Date on which the fair order comes back to the Sr. P.S. ....
6. Date of uploading the order on website.....
7. If not uploaded, furnish the reason for doing so .....
8. Date on which the file goes to the Bench Clerk .....
9. Date on which order goes for Xerox & endorsement.....
10. Date on which the file goes to the Head Clerk .....
11. The date on which the file goes to the Assistant Registrar for signature on the order .....
12. The date on which the file goes to dispatch section for dispatch of the Tribunal Order .....
13. Date of Despatch of Order. ....