

**In the Income-Tax Appellate Tribunal,
Agra Bench, Agra**

**Before : Shri Laliet Kumar, Judicial Member And
Dr. Mitha Lal Meena, Accountant Member**

**ITA No. 253/Agr/2018
Assessment Year: 2013-14**

Shri Prahlad Singh Faujdar, 27, Bagh Farzana, Agra. PAN: AADPF6239K (Appellant)	vs.	Income-tax Officer, Ward 1(2)(3), Agra (Respondent)
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Appellant by	Sh.Rajendra Sharma, Advocate
Respondent by	Sh. Waseem Arshad, Sr. DR

Date of Hearing	01.07.2018
Date of Pronouncement	02.07.2018

ORDER

Per Laliet Kumar, J.M.:

The present appeal is filed by the assessee, feeling aggrieved by the order passed by the Id. CIT(A) on 30.01.2018 for the assessment year 2013-14 on the following grounds :

"1. That the Learned CIT appeal has been erred on facts and in law while sustaining the addition for Rs.7,82,000 made by AO treating the deposits with bank a/c as undisclosed income. No addition is liable to be sustained. Same is liable to be deleted.

2. That while sustaining the addition, the learned CIT appeal has not considered the submission and facts forwarded before him. After taking into consideration the facts and explanation offered before him, no addition is liable to be sustained addition sustained at Rs.7,82,000 is liable to be deleted.

3. That appeal order dated 30.01.18 is bad in law.

2. In the present case, the Assessing Officer had made the addition of Rs.7,82,200/- on the basis of the deposits made in the bank account. It was the case of the assessee before the Assessing Officer that the assessee is involved in agricultural activities on the land of his family members and submitted the details of the family members owning the land which was utilized by the assessee for the purpose of cultivation. Our attention was drawn to the statement of Shri Surendra Pratap recorded by the Assessing Officer, wherein it was agreed that he has 30 bighas of land which was given on lease basis to the assessee. Further, it was submitted that the details of land was not produced by him on the date of recording his statement, which he had promised to produce on the subsequent date as and when called upon. The Assessing Officer was not convinced either by the statement of Shri Surendra Pratap or with other explanations given by the assessee and therefore, made addition of Rs.7,82,200/-. Feeling aggrieved, the assessee filed appeal before the CIT(A) who also confirmed the order of the Assessing Officer.

3. Before us, it was submitted by the Id. AR that the assessee had duly explained the source of income, which was deposited in the bank and submitted that the addition made by the lower authorities is required to be deleted.

4. Per contra, the Id. DR has drawn our attention to the written synopsis filed before us and has submitted that Shri Surender Pratap was not the owner of the agricultural land during the period 2012-13 and there is no written agreement. The assessee has not given the details or evidence to prove the sale of agricultural produce. He had relied upon the decision of Hon'ble Jurisdictional High Court in the matter of Smt. Prem Sundari vs. CIT, wherein the Hon'ble High Court in last para has recorded as under :

“In other words, the assessee has produced the documents i.e., the Court decree pertaining to the half share of the Allahabad property but regarding Lucknow property, no evidence was furnished. Nothing was produced before the Tribunal as well as before this Hon’ble High court. Moreover, in the absence of documents, ALV is to be estimated and the same is the question of facts. No question of law emerges from the impugned order. When it is so, then we decline to interfere with the impugned order passed by the Tribunal. The same is hereby sustained along with the reasons mentioned therein. No substantial question of law is emerging from the impugned order passed by the Tribunal. In the circumstances, the answer to the substantial question is either not required or in favour of the Department and against the assessee.”

5. We have heard the rival contentions and perused the record. For the purpose of making the addition u/s. 68, three cardinal principles are required to be established by the Assessee, namely, the identity and creditworthiness of the creditor and genuineness of the transaction. In the present case, the assessee had produced Shri Surendra Pratap who acknowledged having owned 30 bighas of land and further acknowledged that the land was given on Batai to the assessee. The statement was duly recorded by the Assessing Officer and the Assessing Officer has not brought on record anything contrary to the statement recorded by him and therefore, no evidence was produced to prove/controvert that Shri Surendra Pratap was not the owner of the said land or the land was not leased out on Batai basis to the assessee. In our view, initial onus is being discharged by the assessee and we are convinced with the genuineness of the transaction and are satisfied that the amount was received by the assessee on account of sale of agricultural produce. In presence of these facts, the onus was shifted from the assessee to the Assessing Officer and it was for the Assessing Officer to bring on record any evidence to the contrary. In the present case, nothing adverse was brought on record contradicting the statements recorded by the Assessing Officer of Shri Surendra Pratap and therefore, it succeeds the test of admissibility and we are of the opinion that the assessee had established

the case that the income was generated on account of the work done by him on agricultural land on Batai.

6. Accordingly, the appeal of the assessee is allowed.

Order pronounced in the open court.

Sd/-
(Dr. Mitha Lal Meena)
Accountant Member

Sd/-
(Laliet Kumar)
Judicial member

Dated: 2nd July, 2019

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Copy of order forwarded to:

(1) *The appellant*

(3) *Commissioner*

(5) *Departmental Representative*

(2) *The respondent*

(4) *CIT(A)*

(6) *Guard File*

By order

Assistant Registrar