

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.7775/Del./2018
Assessment Year 2010-2011

Shri Rajbir Singh, S/o. Shri Lehri Singh, H.No.355, Village-Nimbri, Panipat. Haryana. PAN CWNPS6152C (Appellant)	vs.,	The Income Tax Officer, Ward-5, Panipat. Haryana. (Respondent)
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For Assessee :	Shri K.C.Aneja, Income Tax Practitioner
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	26.08.2019
Date of Pronouncement :	05.09.2019

ORDER

This appeal by assessee has been directed against the order of Ld. CIT(A), Karnal, Dated 4th October 2018, for the assessment year 2010-2011.

2. I have heard the Learned Representative of both the parties and perused the material available on record.

3. Learned Counsel for the Assessee did not press Ground Nos.1 and 2 with regard to validity of the re-

assessment proceedings. The same are dismissed as not pressed.

4. Briefly the facts of the case of the case are that the case was reopened under section 147 of the Income Tax Act, 1961 on the reason that assessee had deposited cash amounting to Rs.10,64,000/- in his savings bank account during assessment year under appeal, for which source is not explained. The assessing officer noted that as per information available to the Department, the assessee has maintained his savings bank account with Union Bank of India Nimbri, during assessment year under appeal. The Bank account statement and other deposit details have been obtained from the Bank. On perusal of the same, it is noticed that assessee besides fixed deposits, has deposited cash amounting to Rs.11,14,000/- on different dates and withdrawn Rs.4 lacs in cash during assessment year under appeal, details of the same are noted in para-3 of the assessment order. The assessee was asked to explain the source of the cash deposited in the bank with the documentary evidences. The assessee explained that he is

an agriculturist and his family has three brothers and living jointly with his father in the village. They have 5 acres of agricultural land which is being cultivated by all of them. It was further stated that apart from their own agricultural land, they also used to have agricultural land on lease. The assessee stated that during the assessment year under appeal his entire family earned agricultural income of Rs.5,10,000/- which was deposited in his account by his father as well as by his brothers. Besides this agricultural income he was having past cash savings of Rs.1,74,000/- which was also deposited by him in his bank account during the year under consideration and he also made withdrawals which were re-deposited by him during the year. In regard to deposit of agricultural income, the assessee filed affidavit of his father and his two brothers. The assessing officer noted that assessee has no agricultural land in his own name. The agricultural produces are mostly being sold in the specified vegetable/grain markets. Therefore, assessee was asked to furnish Form-J issued in this regard in support of the

agricultural income of Rs.5,10,000/-. The assessee was also required to furnish copy of the bank account of his brothers. The assessee did not produce any Form-J or any related receipt from Aadhati. The assessee filed some receipts of sale of onion and other vegetables which were signed by various persons. The assessee was required to produce some of the persons to prove genuineness of the sale of agricultural produce to them, but, the assessee failed to produce any of them. The assessing officer in view of the above, estimated the agricultural income of assessee at Rs.2 lacs only as against the claim of Rs.5,10,000/-. The assessing officer further considered the issue of remaining cash deposit and noted that assessee could not produce any evidence with regard to further deposits. The assessing officer also found that assessee has fixed deposits. The assessee during the year under consideration has made three demand drafts. The relevant details have been received from the bank through email which have placed on record. On perusal of it, it was found that the assessee has made these drafts for making investment of Rs.6,52,000/-

in booking or purchase of HUDA plots. The assessing officer, therefore, noted that it is crystal clear from the details/discussion made in the assessment order that assessee has made investment in purchase/booking of HUDA plots during the assessment year under appeal and for making the investment, the assessee had deposited cash amounting to Rs.5,34,000/- in his bank account. The onus upon assessee has not been discharged. The assessing officer, therefore, treated cash deposit of Rs.5,34,000/- as unexplained and made the addition of the same amount. The assessing officer also noted that assessee has earned interest on fixed deposits amounting to Rs.46,491/- which have not been offered for taxation. The assessing officer also made addition of Rs.46,491/- and computed the undisclosed income at Rs.5,80,491/-. The agricultural income was considered at Rs.2 lacs as above.

5. The assessee challenge the addition before the Ld. CIT(A) and same submissions have been reiterated. The Ld. CIT(A) as regards the addition of Rs.5,34,000/- noted that assessee has not produced any documentary evidences

in support of the above cash deposit. No Form-J have been produced. The assessing officer has already given credit of Rs.3,80,000/- out of the total withdrawals made by the assessee. Therefore, appeal of assessee was dismissed.

6. The assessee in the present appeal has challenged the addition of Rs.5,34,000/-. Learned Counsel for the Assessee reiterated the submissions made before the authorities below and submitted that agricultural land was in the name of father of the assessee and after his death the property belongs to assessee and his brothers. PB-3 is reply in which source of cash deposit have been explained by affidavit of father and brother of assessee. PB-13 to 71 are the receipts of sale of agricultural produce. He has, therefore, submitted that addition may be deleted.

7. On the other hand, Ld. D.R. relied upon the orders of the authorities below and submitted that agricultural land was not in the name of assessee and that all the receipts of sale of agricultural produce do not contain

any address of the purchaser, therefore, genuineness of the transaction could not be verified.

8. I have considered the rival submissions and perused the material on record. The assessee claimed agricultural income out of doing cultivation in the land of his father. The assessee did not have any agricultural land in his ownership or possession. The assessee did not produce any evidence of taking any other agricultural land on lease. Even if the assessee succeeded agricultural land of his father after his death, he was only joint owner of agricultural land with his two brothers. The assessee, thus, would be having 1/3rd share only in the agricultural land. The assessee did not produce any J-Form which is always issued on sale of agricultural produce. The assessee merely filed Affidavit of his father and brothers which are self-serving only and would not support earning of agricultural income. The receipts of sale of agricultural produce are filed in the paper book which do not contain address of any of the purchasers. The assessing officer asked to produce some of these persons who have purchased agricultural

produce from assessee, but, none of them have been produced. Therefore, genuineness of these receipts could not be verified by the assessing officer. The assessee claimed earning of agricultural income, therefore, burden is upon the assessee to prove to the satisfaction of the authorities below that he has actually earned agricultural income and to the amount claimed before the assessing officer. Further, the assessee did not produce any satisfactory evidence to prove the quantum of agricultural income earned by him. Therefore, it is difficult to believe that entire agricultural income earned by the assessee, his father and his two brothers would be deposited in his bank account in cash. The assessing officer on finding the details from the bank found that assessee has FDRs as well as obtained demand drafts for booking/purchase of HUDA plots. This was the sole reason for the assessee to make cash deposit in his bank account, which subsequently, the assessee tried to explain earning of agricultural income, but, assessee failed to prove to the satisfaction of the Income Tax Authorities of earning of agricultural income. The assessing officer has

already given sufficient benefit to the assessee. Therefore, in the absence of any reliable evidence on record, it is difficult to interfere with the Orders of the authorities below. I am not inclined to interfere with the Orders of the authorities below. Appeal of assessee has no merit and the same is accordingly dismissed.

9. In the result appeal of Assessee dismissed.

Order pronounced in the open Court.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 05th September, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "SMC" Bench
6.	Guard File

//By Order//

Asst. Registrar : ITAT : Delhi Benches :
Delhi.