

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.5181/Del/2018  
Assessment Year: 2014-15

Vikas Teotia,  
C/o Rag & Associates, CAs,  
209, Jagdamba Tomer,  
13, Preet Vihar Commercial Complex,  
Delhi – 110 092.

Vs. ITO,  
Ward-3(5),  
Hapur.

PAN: ADAPT9378H

(Appellant)

(Respondent)

Assessee by	:	Shri Nikhil Gupta, CA
Revenue by	:	Shri S.L. Anuragi, Sr.DR
Date of Hearing	:	07.08.2019
Date of Pronouncement	:	01.10.2019

ORDER

This appeal by the assessee is directed against the order dated 16<sup>th</sup> May, 2018 of the CIT(A), Muzaffarnagar, relating to Assessment Year 2014-15.

2. Facts of the case, in brief, are that the assessee is an individual and filed his return of income on 15<sup>th</sup> September, 2014 declaring total income at Rs.2,24,880/- and agricultural income of Rs.1,75,000/-. The Assessing Officer completed the assessment u/s 143(3) determining the total income of the assessee at Rs.25,41,630/- wherein, apart from other additions, the Assessing Officer made addition of Rs.7,83,085/- treating the sale of spontaneously grown trees as 'Income from other sources' as

against 'agricultural income' declared by the assessee. Similarly, he also made addition of Rs.8,60,000/- being the cash deposited in the bank account as against sale of agricultural stock claimed by the assessee. The A.O. further made addition of Rs.2,52,500/- out of the gift of Rs.4,50,000 received by the assessee from his mother as gift by invoking the provisions of section 68 of the IT Act. In appeal, the Id.CIT(A) sustained all the above three additions made by the Assessing Officer which are the subject matter of appeal in the grounds of appeal raised by the assessee.

3. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds:-

“1. That on the facts of the case and under the law, the Id CIT(A) had erred in sustaining the addition of Rs.48,420/-, which was made by the Id A.O. as deemed income from house property.

2. That on the facts of the case and under the law, the Id CIT(A) had erred in sustaining the addition of Rs.8,60,000/- being amount of sale of old agriculture stock which was made by the Id A.O. as income from other source and also invoking the provision of sec 69A, for confirming the addition of Rs.8,60,000/-.

3. That on the facts of the case and under the law, the Id CIT(A) had erred in sustaining the addition of Rs.7,83,085/- which was made by the Id A.O. by disbelieving the assessee's claim that he had sold Popular trees (which were grown by him few years ago in his agricultural land situated in Village Bhodala, Tehsil Modinagar, Distt. Ghaziabad) , through Krishi Utpadan Mandi Samiti, Hapur and received payment of Rs.7,83,085/- towards the sale proceeds of Popular trees from M/s Ganesh Timber Products & M/s Singhal Wood Products (through banking Channel).

4. That on the facts of the case and under the law, the Id CIT(A) had erred in invoking the provision of sec 69A, for confirming the addition of Rs.7,83,085/-

5. That on the facts of the case and under the law, the Id CIT(A) had erred in sustaining the addition of Rs. 2,52,500/- being amount gifted by his mother which was made by the Id A.O. as income from other source and also invoking the provision of sec 69, for confirming the addition of Rs 2,52,500/-.”

4. The ld. counsel for the assessee did not press ground of appeal No.1 to which the ld. DR has no objection. Accordingly this ground is dismissed as not pressed. So far as the addition of Rs.7,83,050/- made by the Assessing Officer is concerned, the ld. counsel for the assessee submitted that the assessee had not claimed the receipt of Rs.7,83,050/- to be his agricultural income, but, had claimed the same as capital receipt. He submitted that the assessee had grown poplar trees in his agricultural land situated in Village Bhodala, Tehsil Modinagar, Distt. Ghaziabad) and those poplar trees were sold in financial year 2013-14 through Krishi Utpadan Mandi Samiti, Hapur. The sale consideration of Rs.7,83,050/- in respect of sale of poplar trees was received from M/s Ganesh Timber Products and M/s Singhal Wood Industries. So far as the addition of Rs.8,60,000/- made by the Assessing Officer and upheld by the CIT(A) is concerned, he submitted that the affidavit from sellers of potatoes, their land holding details and the copies of the cash book of the assessee substantiating the purchase and sales of potatoes were furnished. However, despite filing of various evidences, the ld.CIT(A) has not considered those evidences and did not adjudicate the issue properly. So far as the gift received from mother is concerned, the ld. counsel submitted that the assessee has filed the copy of the gift deed, the income-tax return and bank statements of the mother of the assessee i.e., the donor to substantiate the identity and credit worthiness of the donor and the genuineness of the transactions. However, those were not properly considered.

5. The ld. counsel for the assessee filed certain additional evidences in the shape of copy of Khasra form in respect of his agricultural land situated in village Bhodala, Tehsil Modinagar, Distt. Ghaziabad according to which poplar trees were standing on the assessee's agricultural land in F.Y. 2012-13. Similarly, in respect of sale of potatoes, the assessee had prepared his account from M/s Sanjay Kumar Salim Ahmed, commission agent through whom the potatoes were sold by the assessee. In respect of source of cash deposit in the bank account of the assessee, an affidavit explaining the source of such cash deposit was furnished. The ld. counsel for the assessee submitted that during the course of proceedings neither the Assessing Officer nor the CIT(A) had ever required the assessee to furnish such documents. The ld.CIT(A) had decided the appeal against the assessee without giving sufficient opportunity to adduce further evidences. Since these additional evidences go to the root of the matter for deciding the issues involved, therefore, he requested that these additional evidences be admitted and the appeal be decided on the basis of such additional evidences.

6. The ld. DR, on the other hand, heavily relied on the order of the Assessing Officer and the CIT(A). He submitted that the assessee had not substantiated the cash deposit in the bank account, the gift received and the agricultural income from sale of poplar trees. The ld. CIT(A) had given valid reasons while deciding the issue against the assessee. So far as the additional evidences are concerned, he submitted that the assessee has not properly explained as to why he did not file these evidences before

the lower authorities. He accordingly submitted that the order of the CIT(A) be upheld and the grounds raised by the assessee be dismissed. In his alternate contention, he submitted that the matter may be restored to the file of the Assessing Officer with a direction to verify these additional evidences and decide the issue as per fact and law.

7. I have considered the rival arguments made by both the sides and perused the orders of the authorities below. I have also considered the paper book filed on behalf of the assessee. I find the Assessing Officer, in the instant case, had made addition of Rs.7,83,050/- as 'Income from other sources' disregarding the contention of the assessee that such income is a capital receipt. Similarly, the Assessing Officer made addition of Rs.8,60,000/- since the assessee could not explain the agricultural stock of Rs.8,60,000/- reflected by him in the balance sheet as on 31.03.2013 with supporting documentary evidence. The Assessing Officer also made addition of Rs.2,50,500/- out of the gift of Rs.4,50,000/- received from his mother as unexplained cash credit in the bank account u/s 69 of the IT Act. It is the submission of the Id. counsel for the assessee that in view of the additional evidences filed by him to substantiate the sale of poplar trees, the agricultural stock of Rs.8,60,000/- and the gift received from mother, these additional evidences should be admitted since they go to the root of the matter. Considering the totality of the facts of the case and in the interest of justice, I admit the additional evidences so filed before me and restore the issue to the file of the Assessing Officer with a direction to go through the same and decide the issue as per

fact and law, after giving due opportunity of being heard to the assessee. The grounds raised by the assessee are accordingly allowed for statistical purposes.

8. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

The decision was pronounced in the open court on 01.10.2019.

Sd/-  
(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 1<sup>st</sup> October, 2019.

dk

Copy forwarded to :

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi