

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCH 'SMC', JAIPUR

श्री विजय पाल रॉव, न्यायिक सदस्य के समक्ष  
BEFORE: SHRI SHRI VIJAY PAL RAO, JUDICIAL MEMBER

आयकर अपील सं./ITA No. 869/JP/2019  
निर्धारण वर्ष / Assessment Year : 2015-16.

M/s. Pinkcity Resorts Ltd. 395, Narnoli Mansion, Sanganeri Gate, Jaipur.	बनाम Vs.	The Income Tax Officer, Ward 5(2), Jaipur.
स्थायी लेखा सं./जीआईआर सं./PAN No. AAACP 9667 K		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.L. Poddar (Advocate)

राजस्व की ओर से / Revenue by: Shri Abhishek Sharma (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 01.10.2019.

घोषणा की तारीख / Date of Pronouncement : 01/11/2019.

आदेश / ORDER

PER VIJAY PAL RAO, JM :

This appeal by the assessee is directed against the order dated 22-05-2019 of Id. CIT (Appeals)-2, Jaipur for the assessment year 2015-16. The assessee has raised the following grounds of appeal :-

1. Under the facts and circumstances of the case the learned CT (A) has erred in sustaining the addition of Rs. 2,67,932/- out of Rs. 6,94,838/- made by the learned AO on account of alleged undisclosed income introduced in the form of agricultural income.
2. Under the facts and circumstances of the case the learned Assessing Officer has erred in reducing the agricultural income by Rs. 2,67,932/- without any basis or without considering the submission and credible evidences submitted by the assessee.
3. The assessee craves your indulgence to add amend or alter all or any grounds of appeal before or at the time of hearing."

**The only issue arises in this appeal of the assessee is regarding agricultural income to the extent of Rs. 2,67,932/- was treated as undisclosed income by the Id. CIT (A).**

2. The assessee is a company and stated to have engaged in the agricultural activity. The assessee filed its return of income on 15.09.2015 declaring total income at Nil and agricultural income of Rs. 33,94,942/-. The AO while completing the scrutiny assessment under section 143(3) on 23<sup>rd</sup> December, 2017 estimated the expenditure for earning the agricultural income at 30% of the gross agricultural income as against the claim of the assessee at Rs. 1,57,985/-. On appeal, the Id. CIT (A) has restricted the addition made by the AO by estimating the expenditure at 15% as against 30% made by the AO.

3. I have considered the rival submissions as well as the relevant material on record. At the outset, it is noted that the issue involved in the assessee's appeal is identical as in the case of sister concern in case of M/s. Gullu Mal Gulachi Developers Pvt. Ltd. vs. ITO in ITA No. 868/JP/2019 vide even date order this issue has been considered by me as under :-

"5. I have considered the rival submissions as well as the relevant material on record. Though the AO while computing the agricultural income has taken incorrect figures and thereby made the addition of Rs. 8,37,900/-, however, the Id. CIT (A) while allowing the part relief has taken the correct amount of agricultural income and expenditure. Therefore, the said grievance of the assessee is already redressed by the Id. CIT (A). As regards the addition sustained by the Id. CIT (A) by taking the expenditure at 15% which comes to Rs. 4,18,950/- as against the assessee's claimed expenditure of Rs. 1,38,000/-, it is

pertinent to note that the assessee has shown gross agricultural income of Rs. 32,72,999/- which includes Rs. 4,80,000/- as sale of trees. Therefore, the gross agricultural income shown by the assessee from the agricultural operation is Rs. 27,92,999/- against which the assessee has claimed expenditure of Rs. 1,38,120/-. Thus the expenditure claimed by the assessee is around 4.9% which is beyond the imagination of percentage of expenditure for earning the agricultural income. Therefore, the claim of the assessee is found to be unrealistic and the Id. CIT (Appeals) has considered this issue in para 2.3 to 2.3.3 as under :-

*"2.3. I have perused the facts of the case, the assessment order and the submissions of the appellant. Ground No. 01 and 02 are being taken up together which are interrelated. During the year under consideration, assessee declared gross agricultural income of Rs. 32,72,999/- and after claiming expenses of Rs. 1,38,120/- declared net agricultural income of Rs. 31,34,879/- including Rs. 4,80,000/- as sale of trees being other sources. Assessing Officer concluded that assessee has claimed less expenses and looking to short rainfall the total production of agriculture crops could not fetch the price as declared by the assessee. Accordingly, Assessing Officer estimated agricultural income at Rs. 24,35,099/- and made addition of remaining amount of Rs. 8,37,900/- as undisclosed income.*

*2.3.1. Before me, Authorized Representative stated that sales bills were submitted and not doubted by Assessing Officer. Sales of other sources should be accepted.*

*2.3.2. Regarding expenses, Authorized Representative said deduction of 30% based on decision of Shri Durga Prasad Yadav is misplaced. Assessee has given land for cultivation on sharing basis.*

*2.3.3. On perusal of overall facts, it is seen that the Assessing Officer has not doubted the sales bills submitted with regard to sales of agriculture produce nor enquiry made. Thus the sales declared by assessee is accepted. Further assessee claimed expenses against agricultural receipt. Looking to overall facts and following the decision of Hon'ble Bench in Durga Prasad Yadav case, seeing the better location of land etc. it is*

*reasonable to restrict the expenses to 15% against 30% taken by the Assessing Officer. Assessee claimed agricultural expenses at Rs. 1,38,120/- against which 15% expenses are held as reasonable. Accordingly income from agricultural produce is worked out at Rs. 23,74,049/- (Rs.27,92,999 x 85%). Thus total agricultural income comes to Rs. 28,54,049/- (2374049+480000) against Rs. 31,34,879/- declared by the assessee. Addition of Rs. 280830/- is upheld. This ground of appeal is partly allowed."*

Thus it is clear that the Id. CIT (A) has taken a reasonable percentage of 15% expenditure of the gross agricultural income and that too the agricultural income from agricultural operations excluding the income from sale of trees. Hence, in the facts and circumstances of the case as well as the prevailing conditions in the agricultural sector, the claim of the assessee cannot be accepted. The Id. CIT (A) has taken a reasonable view in estimating the expenditure at 15%."

Accordingly, I do not find any error or illegality in the order of the Id. CIT (A) in estimating the expenditure @ 15% of the gross agricultural income.

4. In the result, the appeal of the assessee is dismissed.

Order is pronounced in the open court on 01/11/2019.

Sd/-  
(विजय पाल रॉव )  
(VIJAY PAL RAO)  
न्यायिक सदस्य / Judicial Member

Jaipur

Dated:- 01/11/2019.

Das/

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- M/s. Pink City Resorts Ltd., Jaipur.
2. The Respondent – The ITO Ward 5(2), Jaipur.
3. The CIT(A).
4. The CIT,
5. The DR, ITAT, Jaipur
6. Guard File (ITA No. 869/JP/2019)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar