IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE SMC BENCH, INDORE

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

ITA No. 668/Ind/2019
A.Y. 2011-12

Shri Nilesh Solanki, Indore
PAN – ANSPS5578G :: Appellant

Vs

ITO-1(2), Indore :: Respondent

Assessee by	Shri Rajesh Mehta, CA
Respondent by	Shri R.P. Mourya, Sr. DR
Date of hearing	03.03.2020
Date of pronouncement	03.06.2020

O R D E R

This appeal is filed by the assessee against the order of ld. CIT(A)-1, Indore dated 07.03.2019 pertaining to Assessment year 2011-12. The assessee has raised following grounds of appeal:

1."That the Ld. AO erred in passing order of assessment, against the law and the CIT appeals also erred in confirming the said assessment which is against the law and against the facts of the case, the assessment order is liable to be quashed because no addition was made towards the reason to believe.

2. That the Ld. AO erred in treating the agriculture income of Rs.2,15,800/- as business income and CIT (Appeals) also erred in allowing relief of only Rs.1,00,800/- erred in disallowing agricultural income of Rs.1,15,000/- which is against the law and against the facts of the case hence needs to be deleted.

3.That the Ld. AO erred in issuing notice u/s 148 of the Act and in making assessment against the law and against the facts of the case, hence assessment needs to be quashed.

4.That the appellant craves leave to add, amend or withdraw any of the ground, either before or during the course of hearing of the appeal."

2. Facts in brief are that in the return of income the assessee had declared income from agricultural activities of Rs.4,15,800/- earned from 21 Bigha agricultural land. However, the AO worked out the agricultural income at Rs.2,00,000/- stating that the assessee has offered Rs.10,15,500/- as income from agricultural activities for the A.Y.2014-15 against 85 Bigha agricultural land. Thus, the AO estimated Rs. 2,00,000/- from for 21 Bigha agricultural land in assessment year 2011-12 under consideration and rest of the agricultural income i.e. Rs.2,15,800/- was treated as business income of the assessee. Against this the assessee approached the Ld. CIT(A).

3. Ld. CIT(A) discussed and considered the facts and submissions of the assessee and noted that the assessee had filed complete details of the land holding and the land wise crop growing pattern had also been filed by the assessee. Ld. CIT(A) held that the estimation of the AO is found unreasonable and not based on

material facts brought to the notice of the AO during the course of assessment proceedings. Thus, the Ld. CIT(A) deleted the addition of Rs.1,00,000/- more and restricted the addition to Rs.1,15,000/- treating the same as income from business. Still aggrieved the assessee is before this Tribunal.

4. Ld. counsel for the assessee submitted that the assessee had filed complete details of the land holding and the land wise crop growing pattern had also been filed by the assessee. Further, copy of Khasra Khatoni was also submitted before the AO. Thus, the agricultural income of Rs.4,15,800/- is reasonable and no addition should have been made on conjecture and surmises.

5. On the other hand, Ld. Sr. DR relied upon the orders of the revenue authorities.

6. I have heard the rival submissions, perused the materials available on records. I find that Ld. CIT(A) in the impugned order himself noted that complete details of the land holding and the land wise crop growing pattern had also been filed by the assessee. I also find that the AO while sustaining the addition did not bring any material on record which could suggest that the addition related to business income. Ld. CIT(A) also noted that

estimation of the AO is found unreasonable and not based on material facts brought to the notice of the AO during the course of assessment proceedings. Therefore, I am of the view that the Ld. CIT(A) should have deleted the addition in full. I accordingly direct the AO to delete the balance addition i.e. Rs.1,15,000/-.

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

Order was pronounced in the open court on 03.06.2020.

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

Dated : 03 .06.2020

Patel/PS

Copy to:

Appellant/Respondent/Pr.CIT(A)/Pr.CIT/DR, Indore