

Dilip Mehta v. Addl. CIT (AY 2005-06)

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

BEFORE S/SHRI NRS GANESAN, JUDICIAL MEMBER & SANJAY
ARORA, ACCOUNTANT MEMBER

I.T.A. No. 72/JAB/2012
Assessment year: 2005-06

Shri Dilip Mehta, Prop. Rajul Builders, Rajul Arcade, Russel Chowk, Jabalpur (MP) – 482001 (PAN: AAJPM 8444K)	vs.	Addl. Commissioner of Income Tax, Range-2, Jabalpur
(Appellant)		(Respondent)

Appellant by	Shri Sapan Usrethe, Advocate
Respondent by	Shri H.P.Meena, CIT-DR
Date of hearing	20/7/2020
Date of pronouncement	20/7/2020

ORDER

Per Sanjay Arora, AM:

This is an Appeal by the Assessee agitating the Order by the Commissioner of Income Tax (Appeals), Jabalpur ('CIT(A)' for short) dated 22/12/2011, dismissing the assessee's appeal contesting the order under section 143(3) of the Income Tax Act, 1961 ('the Act' hereinafter) dated 31/12/2007 for assessment year (AY) 2005-06.

2. In this case, the appeal, on account of difference of opinion between the two members constituting the Division Bench that heard the matter, was referred by the Hon'ble President, Tribunal, u/s. 255(4) of the Act to a third Member. The Id. Third Member, vide his order dated 20.3.2020, delineated two issues as arising for his adjudication from the several questions projecting the

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points on which difference of opinion arose between the members of the Division Bench, referred to separately by them. And decided as under:

Issue No.1:

2.1 The selection of assessee's return for the relevant year for scrutiny u/s. 143(3) of the Act was in compliance of the procedure laid down by CBDT for selection of cases for scrutiny for non-corporate assessees for f.y. 2006-07, and, thus, the assessment u/s. 143(3) dated 31.12.2007, which is the subject matter of the instant appeal, could not be impugned on that score. In this, he agreed with the Id. AM. (paras 3 to 9 of his order)

Issue No.2:

2.2 The assessment of Rs.65,10,591/-, returned by the assessee as agricultural income, was assessable as such, and its assessment as income from other sources, in whole or in part, could not be sustained in law, i.e., in the facts and circumstances of the case, including the explanations furnished, and on the basis of material on record. In this, he agreed with the Id. JM. (paras 10 to 34 of his order).

3.1 The matter was accordingly listed for today instant, to dispose the appeal in accordance with the majority view after hearing the parties, who did not express any objection thereto.

3.2 No other issue survives for adjudication in the instant appeal.

3.3 The appeal is accordingly decided on the aforesaid terms.

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4. In the result, the assessee's appeal is partly allowed.

Order pronounced in the open court on July 20, 2020

Sd/-
(N.R.S. Ganesan)
Judicial Member

Sd/-
(Sanjay Arora)
Accountant Member

Dated: 20/07/2020

Copy of the order forwarded to :

1. The Appellant: Shri Dilip Mehta, Prop. Rajul Builders, Rajul Arcade, Russel Chowk, Jabalpur (MP) – 482001
2. The Respondent: Addl. Commissioner of Income Tax, Range-2, Jabalpur
3. The concerned CIT: C.I.T., Jabalpur
4. The CIT(A)-1, Jabalpur
5. Sr. DR, ITAT
6. Guard File