

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL 'A' BENCH: CHENNAI

श्री वी दुर्गा राव, न्यायिक सदस्य एवं श्री एस. जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

**I.T.A. Nos.412 & 413/Chny/2019
Assessment Years: 2009 – 2010 & 2010 - 2011**

Shri J.M.A. Jamal Mohammed Ishak,
Pappa Farm,
Vilar Post,
Thanjavur – 613 006.
Tamil Nadu.
[PAN: AFBPJ 0194C]

The Income Tax Officer,
Ward – I (2),
Vs. 100, Nanjikottai Road,
Thanjavur – 613 006.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri K. Meenakshisundaram, [ITP]
: Mr. Suresh Periasamy, JCIT

सुनवाई की तारीख/Date of Hearing

: 18.11.2020

घोषणा की तारीख /Date of Pronouncement

: 02.12.2020

आदेश / ORDER

PER V. DURGA RAO, JUDICIAL MEMBER:

These two appeals filed by the Assessee are directed against the order of the learned Commissioner of Income Tax (Appeals)-1, Trichy in I.T.A. Nos.291 & 292/2014-15/CIT(A)-1/TRY dated 19.12.2018 relevant to the assessment years 2009 – 2010 & 2010 – 2011.

I.T.A. Nos.412/Chny/2019 :

There are two issues involved in this appeal. The first ground of appeal relates to addition in respect of Rs.1,24,177/- and another addition in respect of Rs.4,50,000/- relating to agricultural income.

In the first ground of appeal in the assessment order, the Assessing Officer has noted that the Assessee has not maintained any books of accounts nor bills and vouchers and has only filed a cash flow statement. Accordingly, the Assessing Officer has estimated the turnover of the Assessee as Rs.20,00,000/- and adopted the gross profit at 31.24% and accordingly made an addition of Rs.1,24,177/-. The same is confirmed by the learned Commissioner of Income Tax (Appeals).

2. On appeal before us, the learned Counsel for the Assessee has submitted that the Assessee is purchasing chappal from Kanpur and the same is being sold at Thanjavur. The Assessee is an educated unemployed person running a small shoe-mart and also scrap sales business and thus, estimating turnover at Rs.20,00,000/- and the addition made for Rs.1,24,177/- is on a very

higher side and prayed that the addition may be restricted to Rs.20,000/-.

3. On the other hand, the learned Departmental Representative has strongly supported the order of the authorities below.

4. We have heard both the sides, perused the materials available on record and gone through the orders of the authorities below.

5. In this case, the Assessee is running a shoe-mart and purchasing goods directly from Kanpur as submitted by the Authorized Representative of the Assessee. Being a small time businessman, the Assessee is not maintaining any books of accounts nor is bills and vouchers available. The Assessing Officer estimated the turnover of the Assessee as Rs.20,00,000/- without any basis and accordingly made an addition of Rs.1,24,177/-.

6. In our opinion, the addition made by the Assessing Officer is on the higher side and is to be scaled down to Rs.40,000/- . The learned Assessing Officer is directed accordingly. The ground raised by the Assessee is partly allowed.

7. The second ground of appeal relates to agricultural income. In the return of income, the Assessee has admitted an income of Rs.4,50,000/-. The Assessee has submitted before the Assessing Officer that he has owned lands at Villar Village and that they are dry lands. The Assessing Officer has asked the Assessee to produce details about the agricultural goods produced by the Assessee for which the Assessee has not produced any details. Therefore, the Assessing Officer has referred the matter to the Village Administrative Officer [VAO] all the details of the agricultural operations carried out by the Assessee. The Deputy Tahsildar, Thanjavur vide Na.Ka.9877/14/A2 dated 28.03.2014 has furnished a certified true copy of the adangal in respect of the details of the agricultural land owned by the Assessee, wherein he has stated that the Assessee has not carried out any agricultural operation. The Assessing Officer further noted that the Assessee has claimed that there are palm oil trees and was also producing vegetables but no details were filed. Accordingly, an addition of Rs.4,50,000/- was made by treating the entire income as income from other sources.

8. On appeal before the learned Commissioner of Income Tax (Appeals), it was submitted that the Assessee is growing palm oil

trees and fruits are supplied to M/s. Cauvery Palm Oil Company Limited, Thanjavur. The Assessee has received only Rs.4,50,000/-. However, the learned Commissioner of Income Tax (Appeals) gave a finding that the Assessee has received only Rs.2,00,000/-. From the above findings given by the learned Commissioner of Income Tax (Appeals), it is clear that the Assessee is carrying out agricultural operation and had cultivated palm oil trees. Therefore, the findings given by the Assessing Officer in the assessment order that the Assessee is not carrying out agricultural operations based on the Deputy Tahsildar, Thanjavur is not correct.

9. So far as the remaining balance of Rs.2,50,000/- is concerned, the Assessee is having about seventeen acres of agricultural land and also is carrying out cultivation of vegetable products. It is very easy to earn an amount of Rs.2,50,000/- by producing vegetables from the seventeen acres of land. Therefore, the income admitted by the Assessee from the palm oil trees of Rs.2,00,000/- and that from the vegetable crops amounting to Rs.2,50,000/- has to be considered as the Assessee had earned agricultural income and not as income from other sources. Therefore, this ground of appeal raised by the Assessee is allowed.

Accordingly, the appeal filed by the Assessee in I.T.A. Nos.412/Chny/2019 is partly allowed.

I.T.A. Nos.413/Chny/2019:

10. The only ground argued by the learned Counsel for the Assessee for the Assessment Year 2010 – 2011 is relating to agricultural income. We find that facts and circumstances are similar to the earlier assessment year 2009 - 2010. Therefore, the addition made by the Assessing Officer by treating the agricultural income as income from other sources cannot survive for the reason that the learned Commissioner of Income Tax (Appeals) has already granted relief by treating Rs.2,00,000/- received from M/s. Cauvery Palm Oil Company Limited, Thanjavur as agricultural income and the remaining amount of Rs.2,50,000/- was already granted relief in earlier assessment year by treating the source as selling vegetable products cultivated by the Assessee. Thus, the ground of appeal raised by the Assessee is partly allowed.

11. In view of the addition, the order passed by the learned Commissioner of Income Tax (Appeals) is set aside and the appeal filed by the Assessee is partly allowed.

12. In the result, the appeals filed by the Assessee in I.T.A. Nos.412 & 413/Chny/2019 are partly allowed.

Order pronounced on 2nd December, 2020 in Chennai.

Sd/-

(श्री एस. जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(वी दुर्गा राव)

(V. DURGA RAO)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai, दिनांक/Dated: 2nd December, 2020

IA, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF