



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK 'SMC' BENCH, CUTTACK**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER**

**ITA No.139/CTK/2019**

Assessment Year : 2014-15

Sayamstuti Pattnayak, C/O – Shanti Memorial Hospital, Udit Nagar, Rourkela.	Vs.	ACIT, Central Circle, Sambalpur
PAN/GIR No.AYDPP 9682 J		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri P.C.Sethi, AR  
Revenue by : Shri S.C.Mohanty, DR

**Date of Hearing : 18 /12/ 2020**  
**Date of Pronouncement : 6/1/2021**

**ORDER**

This is an appeal filed by the assessee against the order of the CIT(A)-2 Bhubaneswar dated 18.3.2019 for the assessment year 2014-15.

2. Although the assessee has raised as many as 10 grounds of appeal but at the time of hearing, he has pressed to adjudicate only Ground No.9, which is as under:

" That the Id CIT(A) has committed serious error in not treating Rs.11,70,600/- as agricultural income but treated as income from other sources as claimed by the appellant."

3. Ld A.R. of the assessee submitted that the assessee has taken on lease agricultural land admeasuring 7.80 acres situated at Mouza Dhelua Tehsil, Rajgangpur from M/s Kanak Gardens Private Limited for a monthly rent of Rs.3000/- per month for cultivation purposes and during the year a sum of Rs.11,70,600/- was yielded. In support of his contention, Id A.R. referred to lease agreement entered into by the assessee and M/s. Kanak Gardens Pvt Ltd., on 30<sup>th</sup> day of March, 2013. He also submitted that the assessee had shown agricultural income of Rs.20,000/- during the assessment year 2012-13 & 2013-14, respectively, which was accepted by the department. He submitted that after getting 7.80 acres land on lease the assessee had cultivated various agricultural products in the said land in the assessment year under consideration and could earn Rs.11,70,600/-. He submitted that the lower authorities have doubted the agricultural income shown by the assessee on surmises and conjectures.

4. Replying to above, Id DR submitted that the assessee has not been able to substantiate how the assessee could earn Rs.11,70,600/- as agricultural income as compared to agricultural income shown during the previous two years. Hence, the contention of Id A.R. has no legs to stand.

5. On careful consideration of rival submissions, first of all, I note, it is the main contention of the assessee that it had taken agricultural land on lease for a monthly rent of Rs.3,000/- from the lessor M/s. Kanak Gardens Private Limited on 30.3.2013. The assessee has claimed Rs.11,70,600/- as

agricultural income but the assessee had not brought on record any material evidence regarding production, storage and sales of the crops which could yield agricultural income of Rs.17,70,600/- Even, the assessee has not maintained accounts of entire agriculture activity to substantiate the claim. The AO, in para 5 of assessment order, noted tht despite notice dated 18.11.2016, the assessee did not respond and did not produce documentary evidence to establish agriculture income supporting the claim. Further, I also observe that the Id CIT(A) on the claim of the assessee, remanded the matter to the AO for fresh report regarding the agricultural income but the stand of the AO remained same as his earlier report. Therefore, the large volume of agricultural income was disbelieved by the AO and Id CIT(A).

6. However, I observe that before getting the land on lease, in the earlier years, the assessee had shown agricultural income of Rs.20,000/-, which was accepted by the department. For the purpose of claiming the benefit of the agriculture income, it is necessary to produce the material evidence to substantiate claim of agricultural income. Further, the assessee should maintain the accounts pertaining to financials and income & expenditure of entire agriculture activity, which was lacking in this case. But keeping in mind that after acquiring the agricultural land and paying monthly rent of Rs.3000/- per month, the assessee had given total annual rent of Rs.36,000/- as per the agreement and, therefore, it cannot be

disbelieved that there was no agricultural income from the said leased land but the evidence of such agricultural income was not produced before the lower authorities. Even before the Tribunal, no such evidence was produced establishing that the lessor was owning land stated in the lease agreement during the relevant financial period and other relevant details as asked by the AO vide his notice dated 18.11.2016 showing and establishing nature of agriculture activities carried out by the assessee location of the landed property from which such agriculture income was generated, copy of lease agreement and copy of bank account wherein such transactions were undertaken and income & expenditure was made or any books of account. Therefore, entire claim of assessee is not acceptable and the authorities below were reasonably correct in doubting the same. At the same time, it is also worth to mention that the assessee has submitted copy of lease agreement which has not been disputed by the Id DR neither it has been argued that it was not submitted before the authorities below. However, we do not find any observations either by the AO in the assessment order or by the Id CIT(A) in the first appellate order regarding this lease agreement. From para 12.1 of the first appellate order, I observe that the assessee submitted documents in support of his land as Annexure-9 but neither the AO in the remand report nor the Id CIT(A) in the concluding observation in paras 12.3 & 12.4 has considered the same and confirmed the addition without any deliberations therein.

7. In these circumstances, I am of the opinion that it cannot be alleged that the assessee did not produce any evidence establishing earning of agricultural income as claimed by him. After paying annual rent of Rs.36,000/- for 7.8 acres of land taken on lease the assessee must have earned agricultural income therefrom. But huge claim of Rs.11,70,600/- is also excessive without any reliable financial accounts or documentary evidence. Keeping in view the entirety of the facts and circumstances of the case, as noted above, in my humble opinion, entire claim of agricultural income is not allowable and it cannot be disallowed in entirety. Therefore, in my considered opinion, end of justice would be met and served if part claim of amount is allowed. Thus, I deem it just, proper and reasonable to restrict the claim of agriculture income of assessee to Rs.5,00,000/- as against Rs.11,70,600/- as claimed by the assessee. The AO is directed to allow the said part claim to the assessee.

8. In the result, appeal of the assessee is partly allowed.

Order pronounced on 6 /1/2021.

Sd/-  
**(Chandra Mohan Garg)**  
**JUDICIAL MEMBER**

Cuttack; Dated 6 /1/2021  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Sayamstuti Pattnayak, C/O –  
Shanti Memorial Hospital, Udit Nagar, Rourkela
2. The Respondent. ACIT, Central Circle,  
Sambalpur
3. The CIT(A)-2, Bhubaneswar
4. Pr.CIT-2 , Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**