

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ B ‘ Bench, Hyderabad
(Through Video Conferencing)
Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri A. Mohan Alankamony, Accountant Member

ITA No.1679/Hyd/2019		
Assessment Year: 2015-16		
Sri Talluri Vijay Rahul, Hyderabad PAN:ALBPT7359K (Appellant)	Vs.	Income Tax Officer Ward 15(3) Hyderabad (Respondent)
Assessee by:	Smt. S. Sandhya	
Revenue by:	Sri Rohit Mujumdar, DR	
Date of hearing:	23/06/2021	
Date of pronouncement:	07/07/2021	

ORDER

Per Smt. P. Madhavi Devi, J.M.

This is assessee's appeal for the A.Y 2015-16 against the order of the CIT (A)-7, Hyderabad, dated 29.08.2019.

2. Brief facts in the case of Sri Talluri Vijay Rahul are that the assessee is an individual and was engaged in the profession of Architects & Engineers and Planning & Designs. He filed his returns of income for the relevant A.Y on 17.2.2017 declaring agricultural income of Rs.22,78,000/-. Assessing Officer disallowed the same and brought it to tax as income from other sources and on appeal, CIT(A) confirmed the order of the Assessing Officer. The assessee is in second appeal by raising the following grounds of appeal :

- 1) The order of the learned Commissioner of Income-tax (Appeals) is erroneous to the extent it is prejudicial to the appellant.
- 2) The learned Commissioner of Income Tax (Appeals) erred in confirming the action of the Assessing Officer in treating the agricultural income of Rs.22,78,500/- the income of the appellant.
- 3) The learned Commissioner of Income Tax (Appeals) ought to have considered the fact that the appellant neither possess any agricultural land nor derived any agricultural income and that the amount of Rs.22,78,500/- was wrongly shown in the return of income prepared by the auditor.
- 4) Any other ground or grounds that may be urged at the time of hearing.

3. The learned counsel for the assessee reiterated the submissions made before the authorities below, while the learned DR supported the orders of the authorities below and submitted that this issue was considered in the assessee's own case in the earlier years i.e. Assessment Years 2010-11 to 2013-14 and the 'SMC' bench of the Tribunal in ITA Nos.1382 to 1384 & 1678/Hyd/2019 dt.22.4.2021 has decided the issue against the assessee.

4. Having regard to the rival contentions, we find that the Assessee's claim of agriculture income was being made in the earlier years as well and for the Assessment Years 2010-11 to 2013-14, the Tribunal has held as under :-

“ ITA Nos.1382 to 1384 & 1678/Hyd/2019

3. Brief facts in the case of Sri Talluri Vijay Rahul are that the assessee is an individual who was engaged in the profession Architects & Engineers and Planning & Designs. He filed his returns of income for the relevant A.Ys declaring agricultural income for all the years. For the A.Y 2013-14, in support of the agricultural income, the assessee filed:

- (i) *a copy of the Patta Pass Book No.382 showing agricultural land of 9.41 guntas situated at Bodhanampadu, Kurichedu Mandal, Prakasham District,*
- (ii) *a copy of purchase order from M/s. Terra Firms Projects (P) Ltd for purchase of Sweet Lime,*
- (iii) *a copy of certificate from the said company wherein it was stated that the assessee has availed the purchase order dated 20.05.2009 in the financial year 2012-13 and that they have paid Rs.23.00 lakhs to the assessee towards purchase of sweet lime; and*
- (iv) *filed a copy of the certificate issued by the Tehsildar, Bodhanampadu, Kurichedu Mandal, Prakasham District vide File No.1507/2013 dated 20.06.2013, wherein it was certified that the assessee has got 9.41 acres of agricultural land in Survey No.146/1 at Bodhanampadu, Kurichedu Mandal, Prakasham District and his annual income is Rs.22,75,500/- from Sweet Lime crop that comes twice in a year.”*

4. During the assessment proceedings u/s 143(3) of the Act, in order to verify the genuineness of the above submissions made by the assessee, the Assessing Officer addressed –

- i) a letter to the company M/s. Terra Firms Projects (P) Ltd seeking their confirmation with regard to the certificate issued by them and also asking them a copy of the ledger a/c in respect of the assessee, as per their books of account for the financial year 2012-13;
- ii) a letter to the Tehsildar, Bodhanampadu, Kurichedu Mandal, Prakasham District asking him to confirm whether the income certificate dated 20.6.2013 was issued by him for the financial year 2012-13 and also the basis of certifying the annual income of the assessee at Rs.22,75,500/-; and
- iii) a letter to the Income Tax Officer Ward-3 Ongole having jurisdiction over the area of Bodhanampadu, Kurichedu Mandal, Prakasham District at which the agricultural

lands of the assessee are stated to be situated, requesting him to conduct an inquiry regarding the genuineness of the above claim of the assessee.

3. In response to the same, the Assessing Officer received information from -

- i) the Tehsildar, Bodhanampadu, Kurichedu Mandal, Prakasham District, vide his letter No.Ldis/37/2016, dated 29.02.2016, stating that the income certificate dated 20.6.2013 filed by the assessee was not issued from the Tehsildar's Office, Kurichedu and that as mentioned in the income certificate, the agricultural land situated at Bodhanampadu, Kurichedu Mandal, Prakasham District under survey No.146-1 Ac 9.41 cents does not belong to the assessee i.e. Sri Talluri Vijay Rahul S/o Venkata Ramana as per their record and that since the land does not belong to the assessee, the assessee is not in enjoyment of the land and Patta Pass Book was not issued to him;
- ii) From the company M/s. Terra Firms Projects (P) Ltd, a letter dated 24.02.2016, stating that they have not made any transaction with the assessee and have not issued him any certificate towards purchase of Sweet Lime and payment of Rs.23,00,000/-; and
- iii) The Income Tax Officer Ward-3 Ongole, vide his letter dated 03.03.2016, has forwarded an enquiry report of their Inspector of Income Tax along with copies of 1-B proforma Register and Survey No.wise land record details in respect of the assessee and letter dated 29.02.2016 of Tehsildar, Kurichedu Mandal stating that the lands in Survey No.146/1 at Bodanampadu, Kurichedu Mandal, Prakasham District do not belong to the assessee and that the assessee does not have any agricultural land in the above survey number. With regard to the Patta Pass Book No.382 it was stated that the Patta Pass Book was in the name of Sri Shaik Silar and not in the name of the assessee and that the income certificate stated to have issued by the Tehsildar was also not issued by him.

4. When all these information was put to the assessee, the assessee could not offer any explanation and therefore, the assessment for the A.Y 2015-16 was completed on 29.12.2017 by bringing to tax the gross agricultural income declared by the assessee as "income

from other sources". Thereafter, similar addition was made for the A.Y 2015-16 as well.

5. Subsequently, on verification of the returns of income for the earlier A.Ys i.e. 2010-11 and 2011-12,, the Assessing Officer observed that the assessee has admitted net agricultural income of Rs.8.00 lakhs for the A.Y 2010-11 and Rs.10,09,000/- for the A.Y 2011-12 as well. Since it was proved beyond doubt that the assessee did not own any agricultural lands, and that the agricultural income shown by the assessee has to be brought to tax as "income from other sources", the Assessing Officer reopened the assessment by issuance of a notice u/s 148. During the re-assessment proceedings u/s 147 of the Act, the agricultural income declared by the assessee was brought to tax as "income from other sources".

6. Aggrieved, the assessee preferred appeals before the CIT (A) for all the A.Ys stating that he was a student during the A.Y 2010-11 and did not derive any income during the relevant previous year. It was submitted that the returns for all the years were filed by the assessee under the guidance and advice of one Shri Raja Rao, ITP who advised the assessee that if the income was offered in the hands of the assessee, the assessee would be able to get educational loans from Bank to pursue higher education and that it is on the advice of the ITP, that the returns were filed declaring the agricultural income and has claimed it as exempt in the computation of income. The CIT (A) did not accept the assessee's contention and held that the contention of the assessee that the returns were manipulated by Shri Raja Rao was not substantiated with any evidence. Thus, the CIT (A) confirmed the order of the Assessing Officer and the assessee is in second appeal before the Tribunal by raising the following grounds of appeal. Except for the quantum, the grounds against the disallowance of agricultural income and addition as "income from other sources" for all the A.Ys are the same.

7. The learned Counsel for the assessee reiterated the submissions made by the assessee before the authorities below that the assessee was a student during the A.Ys 2010-11 and therefore, was not having any source of income and was advised by Mr. Raja Rao, ITP , that to get the educational loan for higher education, the assessee

would have to show some income and accordingly has declared the agricultural income. In support of her contention that Shri Raja Rao is not a fair person, she filed a copy of the charge sheet filed against him for preparation of fake returns of income. Therefore, she submitted that the assessee under the misguidance of an ITP, has filed his returns of income and since he did not have any source of income, the additions are without any basis and should be deleted.

8. The learned DR, on the other hand, pointed out and has relied upon the findings of the Assessing Officer that the assessee has created false documents of income certificate and ownership of land to declare agricultural income and claimed it as exempt. Since the assessee has declared the income in his return of income and the assessee could not prove that he owns any agricultural land to declare agricultural income, the same has been treated as “income from other sources” and therefore, according to him, the addition made by the Assessing Officer and confirmed by the CIT (A) should be confirmed by the ITAT.

9. Having regard to the rival contentions and the material on record, we find that the assessee is allegedly studying at that point of time and his father is an Architect. Therefore, the assessee’s contention that year after year he has been misguided by a person i.e. Mr. Raja Rao, an ITP, to file his returns of income declaring agricultural income on the basis of false documents cannot be accepted. Further, the assessee has not taken any action against the said person. The returns of income were not filed all together at one point of time but were filed year after year. Therefore, the bonafides of the assessee are not proved and since the assessee himself has declared the income, we are satisfied that the Assessing Officer after being satisfied that the assessee had no agricultural income, had no option but to treat it as “income from other sources” and bring it to tax. Therefore, the assessee’s grounds of appeal on this issue are rejected.”

Respectfully, following the above decision in assessee's own case for earlier years 2010-11 to 2013-14 and the 'SMC' Bench of the Tribunal in ITA Nos.1382 to 1384 & 1678/Hyd/2019 dt.22.4.2021, the assessee's appeal for the Assessment Year 2015-16 is dismissed.

5. In the result, assessee's appeal for the A.Y 2015-16 is dismissed.

Order pronounced in the Open Court on 7th July, 2021.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Hyderabad, dated 7th July, 2021.

Vinodan/Reddy gp/sps

Copy to:

S.No	Addresses
1	Sri Talluri Vijay Rahul, 7-132/3/2 Plot No.108, Durga Nagar, Malkajgiri, Hyderabad 500047
2	Income Tax Officer Ward 15(1) IT Towers, AC Guards, Masab Tank, Hyderabad 500004
3	CIT (A)-7, Hyderabad
4	Pr. CIT - 7, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order