

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL

INDORE BENCH, INDORE

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

AND

SHRI MANISH BORAD, ACCOUNTANT MEMBER

VIRTUAL HEARING

ITA No.695/Ind/2019
Assessment Years: 2011-12

Smt. Sanman Singh Kirar

Vidisha

: Appellant

PAN: BAZPK4647K

V/s

ITO

Vidisha

: Respondent

Appellant by	Shri Ashish Goyal & N.D. Patwa, ARs
Revenue by	Shri P.K. Singhi, Sr. DR
Date of Hearing	30.07.2021
Date of Pronouncement	21.09.2021

ORDER

PER MANISH BORAD, A.M

The above captioned appeal filed at the instance of the assessee for Assessment Year 2011-12 is directed against the order of Ld. Commissioner of Income Tax(Appeals)-2 (in short

Ld. CIT], Bhopal dated 27.03.2019 which is arising out of the order u/s 147 r.w.s. 143(3) of the Income Tax Act 1961(In short the 'Act') dated 25.03.2014, framed by ITO Vidisha.

2. The registry has informed that the present appeal is delayed by three days. Ld. Counsel for the assessee submitted that the appellant was suffering from Dengue Malaria during the month of May 2019. Order of Ld. CIT(A) was received on 04.04.2019. The appellant was required to file the appeal by 03.06.2019. Due to illness the assessee was advised to take rest for six weeks. Due to this reason there was a delay in filing the appeal before this Tribunal. Prayer was made to condone the delay. Ld. DR opposed the request. We however under the given facts and circumstances of the case and the illness of the assessee are satisfied with the reason giving rise to delay in filing the instant appeal. We condone the delay and admit the appeal for adjudication on merits.

4. Brief facts as culled out from the records are that the assessee is an individual and working as a RTO agent. Income of Rs.1,59,410/- was declared in the return filed on 31.07.2011 for A.Y. 2011-12. Case selected for scrutiny through CASS

followed by serving of notices u/s 143(2) & 142(1) of the Act. Ld. AO called for various information including the details for the source of cash deposited in the bank account. Though the assessee filed necessary submissions along with evidence that he holds 23 acres of agricultural land and had accumulated cash income from agricultural operation which was utilized to deposit cash in his bank account. Ld. AO however, was not satisfied and made the additions of Rs.2,25,000/- u/s 69 for the unexplained money invested to purchase demand draft, in cash addition for unexplained cash deposit of Rs.10,25,484/- and other minor addition of Rs.4,385/- thereby assessing income at Rs.14,49,450/-.

5. Aggrieved assessee preferred an appeal before the Ld. CIT(A) but failed to succeed.

6. Now assessee is in appeal before Tribunal raising following grounds of appeal:

- 1. The Ld. CIT(A) was not justified in sustaining the assessment order, which is bad-in-law, void ab initio, barred by limitation, illegal contrary to the facts and circumstances of the case, liable to be annulled.*
- 2. That the ld. CIT(A) erred in sustaining the addition of Rs.2,25,000/- u/s 69 as unexplained money invested in purchasing demand draft from Punjab National Bank account without considering the explanation offered by the appellant.*

3. *That the ld. CIT(A) erred in sustaining the addition of Rs.10,25,485/- u/s 69A as unexplained cash deposit in bank account and allowing only Rs.2,74,876/- out of the total cash deposit of Rs.13,00,360/- without considering the explanation offered by the appellant.*

7. Ground No.1 raised by the assessee is general in nature and no submissions were made with regard to this ground and the same is dismissed.

8. Ground No.2 & 3 are the effective grounds pertaining to addition of Rs.2,25,000/- u/s 69 of the Act and Rs.10,25,484/- u/s 69 of the Act. Ld. counsel for the assessee vehemently argued referring to the following written submissions:

1. *That assessee along with his family members is holding 23 acres agricultural land and earning income for sale of crops*
2. *The Ld. AO himself estimated agricultural income of Rs.10,000/- per acre. Thus, he has estimated agricultural income of Rs.2,30,000/- during the year under consideration.*
3. *The assessee has informed that he is holding agricultural income since last 10 years and is earning majorly from the sale of agricultural produce*
4. *Reliance on the judgment in the case of Smita Binod (2017) 23 ITJ 596 (Trib. Indore)*

9. Ld. counsel for the assessee also submitted that if the income from agricultural operation is estimated at Rs.22,000/- per acre on the total land holding of the assessee measuring 23 acres and 50% of such agricultural income is treated as household

expenses then also the assessee will have sufficient cash in hand to explain the alleged additions. Following chart was submitted:

Particulars	Amount
(A)Purchase of DD in cash	Rs.2,25,000
(B) total cash deposit in Bank account	Rs.13,00,360
Less source accepted by Ld. AO/CIT(A)	
From Agricultural income (Rs.10,000/- per acre for 23Acres)	2,30,000
From Commission income from insurance	44,876
Balance of (B) added u/s 69	Rs.10,25,484
Add A+B	Rs.12,50,484
Explanations:	
Past Savings Out of Agricultural income (Rs,22,000 X 23)=5,06,000 For 10 years=50,60,000 Less 50% household and other expenses 25,30,000	
Amount saved with assessee in 10 years	Rs.25,30,000

10. Per contra Ld. Departmental Representative (DR) vehemently argued supporting the orders of both the lower authorities.

11. We have heard rival contentions and perused the records

placed before us and carefully gone through the submissions filed by the assessee. Effective grounds in the instant appeal are ground no.2 & 3 pertaining to addition for unexplained money/cash deposit at Rs.2,25,000/- and Rs.10,25,484/-. Both the lower authorities were not satisfied with the explanation made by the assessee. We find that the alleged additions are comprising of two parts, firstly addition for purchase of DD in cash of Rs.2,25,000/- and second is cash deposit of Rs.13,00,360/- in the bank account of PNB.

12. It is not in dispute that the assessee holds agricultural land measuring 23 acres and the same being used for agricultural operation has not been disputed by the revenue authorities.Ld. Assessing Officer has himself calculated income of Rs.10,000/- per acre in the year and given deduction of Rs.2,30,000/- against the alleged cash deposited at Rs.13,00,360/- and DD purchased in cash and also given benefit of income on commission of Rs.44,876/-. Remaining addition was Rs.2,25,000/- for DD purchased in cash and Rs.10,25,484/- for the unexplained cash deposited in bank. Both totalling to Rs.12,50,484/-.

13. Ld. Counsel for the assessee has contended that the assessee's own agricultural land since last is more than 10 years and consistently earned income from agricultural. He also submitted that though the income per year is much more than Rs.22,000/- per acre but still if conservative figure of Rs.22,000/- per acres is taken the yearly income will be Rs.5,06,000/- and for last 10 years it will be Rs.50,60,000/-. Against this agricultural income even if 50% is treated as household expenses then also assessee will have a saving of Rs.25,30,000/- of last 10 years and that will be sufficient to explain the alleged additions of Rs.12,50,484/- as referred above. In support he placed reliance on the decision of this Tribunal in the case of *Smita Binod vs. ITO 3 ITJ 596 (2017)*. In the case of *Smt. Smita Binod & others* the finding of this Tribunal reads as follows:

"We have considered the rival contentions, carefully gone through the order of the authorities below and the detailed chart of production and sale of various produce like wheat, chana, soya, placed on record duly indicating the month of production and also date of sale, rate at which the produced was sold. The assessee had also given detailed breakup of the various expenditure incurred for producing these crops which in total amounted to Rs.1,99,500/-. Thus, the total net income of Rs.6,21,270/- was shown in respect of land of 18.86 acres in Ratanpur area, Bhopal, yielding average rate of Rs.33,000/- per acre. The Ld. Commissioner of Income Tax (Appeals) estimated Rs.15,000/- per acre.

Keeping in view the details furnished by the assessee as narrated by the ld. Commissioner of Income (Appeals) in his order which has not been controverted, it would be most reasonable to estimate the income at Rs.22,000/- per acre of land for computing the agricultural income shown by the assessee with respect to various crops. The Assessing Officer is directed to recomputed the agricultural income by taking the income of Rs.22,000/- per acre of land. We direct accordingly.”

14. From perusal of the above finding we observe that the assessee referred in this decision is also from the same area near Bhopal and against the estimation of agricultural income of Rs.15,000/- per acre, this Tribunal estimated it at Rs.22,000/- per acres. Taking basis from this decision even if we take a conservative figure of Rs.15,000/- per acres then also the estimated income for 23 acres agricultural and for last 10 years comes to Rs.34,50,000/- and after reducing 50% for household and other expenses there would still remain a saving of Rs.17,25,000/-. Even this figure of Rs.17,25,000/- could be sufficient to explain the source of alleged addition of Rs.12,50,484/-.

15. We, therefore, under the given facts and circumstances of the case and the assessee being an owner of 23 Acres of agricultural land being consistently used for agricultural

operations, are of the considered view that the accumulated income of past years as discussed above would be sufficient to explain the source of DD purchased in law of Rs.2,25,000/- and also sufficient to explain the source of alleged cash deposit of Rs.10,50,484/-. We accordingly set aside the finding of Ld. CIT(A), and delete the impugned addition of Rs.2,25,000/- & Rs.10,50,484/-. Ground no.2 & 3 of the assessee appeal are allowed.

16. In the result, assessee's appeal in ITANo.695 /Ind/2019 is partly allowed.

The order pronounced as per Rule 34 of ITAT Rules, 1963 on 21.09.2021.

Sd/-

(C.M. Garg)
JUDICIAL MEMBER

Sd/-

(MANISH BORAD)
ACCOUNTANT MEMBER

दिनांक /Dated : 21.09. 2021

Patel/PS

Copy to: The Appellant/Respondent/CIT concerned/CIT(A) concerned/
DR, ITAT, Indore/Guard file.

By Order,
Asstt.Registrar, I.T.A.T., Indore