

**IN THE INCOME TAX APPELLATE TRIBUNAL  
( Delhi Bench "F", NEW DELHI)**

**(Through Video Conferencing)**

**BEFORE**

**SHRI AMIT SHUKLA, JUDICIAL MEMBER  
Dr. B.R.R. KUMAR , ACCOUNTANT MEMBER**

**ITA No. 2619/Del./2018, A.Y. : 2014-15**

Poonam Sharma B-6/5, Local Shopping Centre Safdarjung Enclave New Delhi 110029	Vs	ACIT, Special Range-5 New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>(PAN : APOPS7939H)</b>		

**Assessee by : None  
Revenue by : Ms. Shirumi Bansal, Sr. DR**

<b>Date of Hearing: 13.09.2021</b>	<b>Date of Pronouncement: 23.11.2021</b>
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**ORDER**

**PER B.R.R.KUMAR, ACCOUNTANT MEMBER :**

This appeal has been filed by the assessee against the order of the Id. CIT(A)-36, New Delhi, dated 09.02.2018.

2. The assessee filed return of income on 26.09.2014 declaring total income at Rs. 35,41,120/-. During the assessment proceedings the assessee was asked to produce the following details :-

“1. Date of purchase of land and copy of sale deeds, Khasra and khatauni. Pleaded also state correct particulars of location of land, surroundings and distance from river. District headquarters, distance from mandi samiti, food grain market and railway station.

2. Details of area covered for each harvest.

3. True and correct particulars of herbs grown in the land.
4. Date wise sale of agricultural produce of herbs.
5. Details of parties along with names and addresses to whom agricultural produce have been sold.
6. Please produce vouchers of purchase of seeds.
7. Please furnish complete addresses, contact numbers, ledger accounts, PAN of following parties.
  1. M/s. Sankalp Trading Company, Jhansi
  2. M/s. Peetambra Herbs, Jhansi
  3. M/s. Jai Maa traders, Jhansi
8. *Please furnish technical/ agricultural details of preparing soil for herbs namely bhringaraj, Jatamasi, Arnimool, Kharenti, Kateri satavari, Naganvotba, Dhaturapancbang, Akarkara, Aliea/a. safed niusli, Adusa, Neern pattr, Pnyangu, Ashgadh. Aleovera(Gwaipadia), Baboolchal, Arjun Civil, Giloy, Pusbkarmmol, Ginger, Vidharamool, Nishoth, Given AMI A.*
9. How is it possible that in one type of climate, you have grown all the above herbs, which individually require different soil, weather and climate. Please substantiate genuineness of growing all herbs in your land. Jatarnasi is grown on steep hills. How could you grow Jatarnasi in your land in Jhansi? Satavari in grown is sandy and red soil and needs specific range of temperature. How could you grow Satavari your land? Nagarmotha is grown in water borne and wet places. How could you grow Nagarmotha in your land ?
10. Please furnish details of expenses on fertilizers

and pesticides in each harvest as all the herbs required specific type of fertilizer and pesticides.

11. All the herbs require specific processing for the purpose of marketing and sale. Please furnish details of such processes and expenses incurred in such processes.

12. Please substantiate genuineness of Agriculture and Income.”

3. The assessee stated that she possessed 14.92 acres of land at Jhansi and carried out agricultural activity through her care taker employee. She supported the agricultural income through Khasra and Khatauni issued by local Tehsildar. It was stated that out of gross agricultural income of Rs. 28.56 lakh, the agricultural income of Rs. 21,74,000/- (77%) was earned from sale of Jaributi (Herbs). The balance agricultural of 23% was on account of agricultural produce of wheat, gram and ground nuts. It was stated that Jaributies were sold to certain parties of Jhansi on the bill book of Mrs. Poonam Sharma without any particulars of buying parties namely M/s. Sankalp Trading Company, Jhansi, M/s Jaima Traders. These bill books are self printed without any particulars of Sale Tax Number, VAT of the seller and buyer. There are no bills of the above entities M/s. Sankalp Trading Company, M/s. Peetambra herbs & M/s. Jaimaa Traders. These entities have no proof of identities and genuineness of business.

4. The AO asked the assessee to substantiate genuineness of agricultural operation of herbs, which are grown in certain specified climatic conditions not available in Jhansi thus, falsifying the theory of agricultural operation of the herbs.

5. The AO held that the assessee has failed to substantiate genuineness of agricultural operations of herbs, she has also failed to

substantiate any process to make herbs saleable commodity. Herbs are not like vegetables, "kheton se nikala aur bazaar mein bech diya". There are specific guidelines for maintaining distance between plants, their protection, application of specific fertilizers and post-agricultural production procedures before making sale. There are well defined procedures to process a particular herb and it is time taking process. If she could do so, she should take the technology to Agriculture Universities and ICAR so that the country is immensely benefited.

6. Holding thus,, the AO held that the agricultural income received from assessee cannot be accepted as genuine and treated it as income from business and profession.

7. The Ld. CIT(A) reduce the addition of Rs. 23.41 lakhs to 18.03 lakhs after re-computation of acreage of the land.

8. Aggrieved the assessee filed appeal before us

9. We have gone through the material before us. We find that the assessing officer went theoretically without any tangible material to disprove the claim of agricultural income. While the assessee has produced bills from three entities the AO has not conducted any enquiries to prove that the bills or fake or bogus. Had it been proved the case for providing incorrect, tampered evidences could have been made . The assessing Officer as well as revenue has also ignore the earlier history of the assessee from A.Y 1994-95 to A.Y. 2015-16 wherein earlier income declared by the assessee has been accepted under section 143(3) proceedings for various years. The details are as under :-

S. No.	Assessment Year	Agriculture Income	Assessed u/s 143(3)
1.	1994-1995	168,046	
2.	1995-1996	312,768	
3.	1996-1997	445,892	143(3)
4.	1997-98	445,716	143(3)

5.	1998-99	476,640	143(3)
6.	1999-00	499,704	
7.	2000-01	505,690	
8.	2001-02	571,498	
9.	2002-03	626,508	
10.	2003-04	864,030	143(3)
11.	2004-05	1,054,011	
12.	2005-06	1,120,308	
13.	2006-07	973,444	143(3)
14.	2007-08	998,289	143(3)
15.	2008-09	1,213,591	143(3)
16.	2009-10	1,311,842-200000	250/143(3)
17.	2010-11	1,361,184	
18.	2011-12	1,542,392-100000	250/143(3)
19.	2012-13	1,681,396	143(3)
20.	2013-14	2,202,075	143(3)
21.	2014-15	2,341,597	Under appeal
22.	2015-16	25,92,275-150000	143(3)

10. Thus, on going through the entire facts and circumstances of the case, we hold that there is no tangible material collected by the revenue to prove or to treat the income declared by the assessee as income from business and profession but income from agriculture.

11. In the result, appeal of the assessee is allowed.

Order pronounced in open court on 23<sup>rd</sup> day of November, 2021.

**Sd/-**  
**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(Dr. B.R.R.KUMAR)**  
**ACCOUNTANT MEMBER**

\*Binita\*

Dated : 23/11/2021

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- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), New Delhi.
- 5.CIT(ITAT), New Delhi.

AR, ITAT  
NEW DELHI.