

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "B", BANGALORE**

Before Shri B.R.Baskaran, AM & Smt.Beena Pillai, JM

ITA No.3416/Bang/2018 : Asst.Year 2013-2014

Sri.Satish C.Kandkur D No.26-1-11, Basaveshwar Nagar Yadgir – 585 202 PAN : ARKPK9237C.	v.	The Assistant Commissioner of Income-tax, Circle – 1 Kalaburagi
(Appellant)		(Respondent)

Appellant by : --- None ---
Respondent by : Sri.Srinath Sadanala, Addl.CIT-DR

Date of Hearing : 15.12.2021	Date of Pronouncement : 15.12.2021
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ORDER

Per B.R.Baskaran, AM:

The assessee has filed this appeal challenging the order dated 26.02.2018 passed by the learned CIT(A), Gulbarga and it relates to assessment year 2013-2014.

2. None appeared on behalf of the assessee, even though notice was sent several times. On one occasion the notice was sent through the DR also. Hence, we proceed to dispose of the appeal on merits, without the presence of the assessee.

3. The appeal is barred by limitation by 235 days. The assessee has filed a petition requesting the bench to condone the delay. We heard the learned Departmental Representative on this preliminary issue. Having carefully considered the submission made in the petition, we are of the view that there was sufficient cause for the delay. Accordingly, we condone the delay and admit the appeal for hearing on merits.

4. The assessee is aggrieved by the decision of the learned CIT(A) in confirming the addition of Rs.1,00,00,000 relating to unexplained cash credit and Rs.9,79,438 relating to unexplained investment.

5. We heard the learned DR and perused the records. The first issue relates to the addition of agricultural income of Rs.1.00 crores. The facts relating to the said issue are that the assessee is engaged in the business of execution of civil contracts. It was noticed from the return of income filed for the year under consideration that the assessee has reported agricultural income of around Rs.1.06 crore during the year under consideration, while in the earlier assessment years, the agricultural income reported by him was in the range of Rs.6 to 8 lakh only. Hence, a survey action u/s 133A of the Act was carried out. During the course of survey, the assessee submitted that he has taken many lands on lease during the year relevant to the assessment year 2013-2014 and hence, he could earn higher agricultural income. However, he could not furnish the details relating to lands taken on lease. Accordingly, he agreed to surrender a sum of Rs.1 crore out of agricultural income disclosed by him. Hence the A.O. added Rs.1.00 crore to the total income of the assessee. The learned CIT(A) also confirmed the same.

6. We notice from the statement of facts furnished before the learned CIT(A) that the assessee has furnished the details of land taken on lease. We notice that the learned CIT(A) has not considered the same. We notice that the assessee could

not furnish the details of land taken on lease at the time of survey as well as at the time of assessment proceedings. However, the same was furnished before the learned CIT(A) in the statement of facts filed before him. It is settle principle that there is no estoppel against law. Accordingly, if the assessee is able to furnish the details relating to agricultural income earned by him from own lands as well as leased lands, in our view, the same should be considered before making the addition of Rs.1.00 crore out of agricultural income. In fact, the assessee has agreed to offer the above said amount only on the reasoning that he could not furnish the details. Now he has furnished the details before Ld CIT(A). Under these sets of facts, in the interest of natural justice, we are of the view that this issue requires fresh examination at the end of the learned CIT(A) by duly considering the details of own land and agricultural land taken on lease by the assessee and such other details that may be furnished in support of the agricultural income earned by the assessee. Accordingly, we set aside the order passed by the learned CIT(A) on this issue and restore the same to the file of the learned CIT(A) for examining it afresh.

7. The next issue is relates to unexplained investments in purchase of flats. The assessee had purchased a flat and villa in Hyderabad. There was a discrepancy of Rs.9,79,438 in the value of investment made by the assessee and disclosed in the books of account of the assessee. Even though the assessee submitted that the mistake would have happened due to accounting error, yet the A.O. added the same to the

total income. According to the A.O., the assessee offered the above said difference to tax.

8. Before the learned CIT(A), the assessee contended that there was no difference as pointed out by the A.O. Since the assessee has agreed to offer the difference, the learned CIT(A) also confirmed the addition.

9. In our view, if the assessee is able to prove that there is no difference, then no addition is required even if the assessee had offered the same as his income during the course of assessment proceedings. In the interest of natural justice, we are of the view that the assessee may be provided with an opportunity to furnish the details. Since the details that may be furnished by the assessee require verification, we restore this issue to the files of the learned CIT(A) for examining it afresh.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced on this 15th day of December, 2021.

Sd/-
(Beena Pillai)
JUDICIAL MEMBER

Sd/-
(B.R.Baskaran)
ACCOUNTANT MEMBER

Bangalore; Dated : 15th December, 2021.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A) Gulbarga.
4. The Pr.CIT, Gulbarga
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore