

**आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**DIVISION BENCH, "SMC", CHANDIGARH**

श्री एन. के. सैनी, उपाध्यक्ष एवं श्री संजय गर्ग, न्यायिक सदस्य  
**BEFORE SHRI N.K. SAINI, VICE PRESIDENT &**  
**SHRI SANJAY GARG, JUDICIAL MEMBER**

आयकर अपील सं./ ITA No. 37/CHD/2019

निर्धारण वर्ष / Assessment Year : 2013-14

Sh. Harvinder Singh Sidhu, Kothi No.181, Phase-II, Mohali Punjab	बनाम	The ACIT, Circle-7, Ludhiana
स्थायी लेखा सं./PAN NO: AOPYS 2361C		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

**Hearing though video Conferencing**

निर्धारिती की ओर से/Assessee by : Shri Vibhore Garg, CA  
राजस्व की ओर से/ Revenue by : Dr. Ranjeet Kaur, Sr.DR  
सुनवाई की तारीख/Date of Hearing : 23.11.2021  
उदघोषणा की तारीख/Date of Pronouncement : 07 .12 .2021

**आदेश/Order**

**Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 14.11.2018 of the Commissioner of Income Tax (Appeals)-3, Ludhiana [hereinafter referred to as 'CIT(A)']

2. The assessee in this appeal has taken following grounds of appeal:-

- 1. Because the action of treating the agricultural income of Rs 29,40,962/- as cash credit u/s 68 is being challenged on facts and law and the quantum of the addition is being disputed.*
- 2. Because the action of declining the benefit of agricultural income for an amount of Rs 12,77,096/- and partly restricting the benefit to Rs 16,63,866/- is being challenged on facts & law.*
- 3. For any consequential relief and/or legal claim arising out of this appeal and for any addition, deletion, amendment and modification in the grounds of appeal before the disposal of the same in the interest of substantial justice to the assessee.*

3. The brief facts of the case are that the assessee is an individual and earning income from salary, interest and agricultural income for the assessment year under consideration. The assessee in the return of income declared an agricultural income of Rs. 29,40,962/-. On being asked to explain this respect, the assessee furnished necessary records such as 'Jamabandi' (record of ownership of land), 'Girdawari' (record of cultivation and nature of crop), 'J' forms (evidence of sale of crop) etc. However, the Assessing officer compared the yield of the assessee with the average yield in Punjab as per data available on the government website / portal and observed that the assessee has much more yield per acre than the average yield in Punjab, as shown on the portal regarding average yield per acre. He, observed that the assessee had not given the details of the expenditure incurred on agricultural activity. He, further observed that the assessee had not furnished the proof of agricultural

activities, such as, ownership of agricultural equipment, proof of purchase of seeds, pesticides, use of tractors etc. He, accordingly did not accept the agricultural income of the assessee and assessed the same as “income from unexplained sources’ u/s 68 of the Act.

4. Being aggrieved by the order of the Assessing officer, the assessee preferred appeal before the Ld. CIT(A). The Ld. CIT(A) after considering the evidences furnished by the assessee partly accepted the agricultural income to the extent of Rs. 12,77,096/-, as per the average income in Punjab shown on the website of the Central Govt. and restricted the addition to Rs. 16,63,866/-.

5. Being aggrieved by the above order of the CIT(A), the assessee has now come in appeal before us.

6. At the outset, the Ld. counsel for the assessee has submitted that the assessee has furnished all the records pertaining to the ownership of land, agricultural activity carried on the land and even proof of sale of crop. The Ld. Counsel has further submitted that it depends upon the nature of land, that some land may give more yield as compared to others depending upon the type of soil, manner of irrigation, the general atmosphere and weather of the area. The Ld. counsel has submitted that assessee had produced on file the copy of the ‘Jamabandi’, ‘Khasra Girdwarai’ which showed not only the ownership of the land but report

of the Land Revenue Officer regarding standing crops on the land, nature of the land as well as mode of irrigation. He has further submitted that the land of the assessee is irrigated through canal water and, therefore, the assessee has not incurred any expenditure on irrigation and that the land irrigated by the canal water is generally more fertile. He has further submitted that even the 'J' forms are the proof of sale of the crop which are issued by Market Committee. That there was no evidence available with the lower authorities to the effect that the agricultural yield shown by the assessee was more as compared to the other neighboring farmers of the area. That the comparison of the yield of the assessee with the average yield mentioned on the national portal was not a right criteria. The Ld. Counsel has further submitted that the assessee had shown income on the same pattern in earlier years as well as in subsequent years which have been accepted by the Income Tax Authorities. He, in this respect has relied upon the assessment order u/s 143(3) of the Act for the assessment year 2010-11 & assessment year 2011-12 and he further relied upon the assessment orders of subsequent years i.e. assessment year 2014-15 & 2015-16, wherein, the concerned Assessing officers have accepted the agricultural income of the assessee to the same tune. He, therefore, has submitted that the action of the CIT(A) in restricting the income from agricultural activity, by comparing with the average data on the website /national portal, was not justified.

7. The Ld. DR, on the other hand, has submitted that the assessee has shown almost double yield, as compared to the average per acre, as shown on the government national portal / website, which was not believable. She has further submitted that the average per acre yield in Punjab has been taken from government portal and that since there is very much deviation from the average per acre shown on the website, therefore, the Ld. CIT(A) was justified in restricting the agricultural income to that extent.

8. We have considered the rival submission. In this case, the assessee has given the relevant evidences, such as, proof of ownership of land, evidences relating to the cultivation and standing crop on the land and even 'J' forms which are proof of sale of crops. However, no contrary evidence has been referred to either by the Assessing officer or by the CIT(A) to disbelieve the aforesaid evidence produced by the assessee on the file. There is no comparative data available on record of the neighboring land owners to dispel the claim of the assessee regarding the per acre yield on the land in the same area. In our view, simply comparison with the average per acre yield shown on the government website / portal is not justified in rejecting the yield shown by the assessee on his agricultural land. Moreover, the yield / agricultural income to the same extent has been accepted not only in the

earlier assessment years i.e. 2010-11 & 2011-12 but also in the subsequent assessment years 2014-15 & 2015-16 by the concerned Assessing officers and there is no material available on record to reject the claim regarding agricultural income of the assessee for the assessment year under consideration.

In view of this, the action of the CIT(A) in restricting the income of the assessee to Rs. 12,77,096/-, as against claim of agricultural income of the assessee of Rs. 29,40,962/-, cannot be held to be justified. The impugned order of the CIT(A) is set aside and the Assessing officer is directed to accept the agricultural income of the assessee as shown in the return of income

The appeal of the assessee stands allowed.

Order pronounced on 07.12.2021.

Sd/-  
(एन. के. सैनी / N.K. SAINI)  
उपाध्यक्ष /Vice President  
Dated : 07.12.2021  
“आर.के.”

Sd/-  
(संजय गर्ग / SANJAY GARG)  
न्यायिकसदस्य/ Judicial Member

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. आयकरआयुक्त (अपील)/ The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्डफाईल/ Guard File

आदेशानुसार/ By order,  
सहायकपंजीकार/ Assistant Registrar