

**IN THE INCOME TAX APPELLATE TRIBUNAL  
[DELHI BENCH "SMC": NEW DELHI]**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER AS S.M.C.  
(Through Video Conferencing)**

ITA. No. 8463/Del/2019  
(Assessment Year : 2011-12)

Shri Harpal Singh, Village : Gesupur, Post : Detawali, Meerut, Uttar Pradesh – 250 004. <b>PAN: AWWPS1879H</b>	Vs.	Income Tax Officer,  Ward : 1 (3),  Meerut.
(Appellant)		(Respondent)

Assessee by :	Shri Bhupinder Singh, C. A.;
Department by :	Shri Sanjiv Mahajan, Sr. D.R.;
Date of Hearing :	25/01/2022
Date of pronouncement :	25/02/2022

**ORDER**

01. This appeal by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals), Meerut [hereinafter referred to as CIT (Appeals)] pertaining to the assessment year 2011-12.
02. The assessee has raised the following grounds of appeal:-

“i) The assessee belongs a joint agriculturist family, having agriculture land at Vill: Gesupur Post Detawali, Garh Road, Meerut.

ii) The assessee and his three brothers are co-owners of the agriculture land situated at Vill: Gesupur, Post Detawali, Garh Road, Meerut.

( Copies of Khasra enclosed ). Page 17 to 19.

iii) The assessee alongwith his brothers growing various crops since last several years. They were selling some crops in the open market on cash and some crops to various whloesale brokers, on credit. Such brokers were making payments on their convience even after eight to fifteen months.

( Copies of affadavit of brokers enclosed ). Page 13 to 16.

iv) The assessee, was maintaining singal saving bank account No.00231000008330 in the his name with Zila Sehkari Bank Ltd., Garh Road, Meerut. All the receipts of four brothers from brokers were being deposited in this account.

( Copies of affadavit of all brothers enclosed ). Page 20 to 23.

On the facts and circumstances of case, it is clear that the assessee and his three brothers were engaged only & only in the agricultural activities since last 15 years. The income arising from the agriculture activities are not taxable under the Income Tax Act, 1961.”

03. The facts giving rise to the present appeal are that the case of the assessee was re-opened for assessment under Section 147 of the Income Tax Act, 1961 (hereinafter referred to as the Act) on the basis of information received regarding deposit of cash. In response to the notice issued, no one appeared on behalf of the assessee. Therefore, the Assessing Officer made addition of Rs.17,00,000/- and assessed the income at Rs.17,00,000/- vide assessment order dated 23.10.2018. Aggrieved against this the assessee preferred appeal before the Id. CIT (Appeals). Before the Id. CIT (Appeals) the Id. Authorized Representative of the assessee appeared. However, as per Id. CIT (Appeals) no supporting evidence was filed regarding the claim of the assessee that the amount deposited was out of agricultural income. Aggrieved against this the assessee has filed present appeal before the Tribunal.

04. The Id. AR submitted that the authorities below failed to appreciate the facts in the right perspective and it was further submitted that the assessee is having agricultural income. This fact was not verified by the authorities below and have mechanically made the addition. The assessee has also filed an affidavit, of Shri Sunil Kumar, son of Shri Harbans Singh, who stated that they are four brothers including the assessee, who owned agricultural land jointly. It was further stated that the amount of agriculture income was deposited in the bank account of the assessee and thereafter a joint account was opened in the Syndicate

Bank, Kamalpur, Meerut, bearing No.89282200009210. It was contended that no effective opportunity was provided by the authorities below. On the contrary the ld. DR submitted that the assessee did not furnish the requisite evidence before the authorities below and therefore, the authorities below were justified in making the addition.

05. I have heard the rival submissions perusing the material available on record. I find that there was no effective representation on behalf of the assessee before the authorities below. It is seen that the contention of the assessee before the assessing authority regarding the source of cash deposited in his bank account was out of agriculture income which was not properly verified by the assessing authority. Looking to the facts and circumstances and more particularly to sub-serve the interest of substantive justice, I am of the considered view that the assessee should have been afforded adequate opportunity to represent his case effectively. I, therefore, in the interest of substantive justice, set aside the orders of the authorities below and restore the case to the Assessing Officer for making assessment afresh. Needless to say that the Assessing Officer would provide adequate opportunity to the assessee and conduct the requisite enquiry as deemed fit and proper under the facts and circumstances of the case. Ground raised in this appeal is allowed for statistical purposes.

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

Order pronounced in the open court on : 25/02/2022.

**Sd/-  
( KUL BHARAT )  
JUDICIAL MEMBER**

Dated : 25/02/2022.

\*MEHTA\*

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1. Appellant;
2. Respondent
3. CIT
4. CIT (Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi

Date of dictation	17.02.2022
Date on which the typed draft is placed before the dictating member	17/23.2.22
Date on which the typed draft is placed before the other member	25.02.2022
Date on which the approved draft comes to the Sr. PS/ PS	25.02.2022
Date on which the fair order is placed before the dictating member for pronouncement	25.02.2022
Date on which the fair order comes back to the Sr. PS/ PS	25.02.2022
Date on which the final order is uploaded on the website of ITAT	25.02.2022
date on which the file goes to the Bench Clerk	25.02.2022
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	