

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” Bench, Mumbai
Before Shri Shamim Yahya (AM) & Shri Pavan Kumar Gadale (JM)

I.T.A. Nos. 683 to 686/Mum/2020
(Assessment Years : 2002-03, 2003-04, 2006-07 & 2007-08)

Narhari Sanap 2 nd Floor, Ramkunvar Mansion, Valli Peer Road, Kalyan-421 301 PAN : AMTPS8944E	Vs.	DCIT, CC-1 Ashar IT Park, 6 th Floor Road No.16Z Wagle Industrial Estate Thane(W)-400 064
(Appellant)		(Respondent)

Assessee by	None
Department by	Shri Mahesh Akhade
Date of Hearing	09.03.2022
Date of Pronouncement	10.03.2022

O R D E R

Per Bench :-

These are assessee's appeals directed against respective orders of learned CIT(A), which are in fact a common order for the concerned assessment years dated 30.11.2019. The common issue raised by the assessee is that ld.CIT(A) erred in confirming the addition on account of alleged difference between closing balance as per Final capital account and that filed with ITR u/s. 139 as under:-

A.Y.	Amount (Rs.)
2002-03	Rs. 83,149/-
2003-04	Rs. 41,390/-
2006-07	Rs.1,37,287/-
2007-08	Rs.2,83,884,

2. Another issue raised for AY 2007-08 is that ld.CIT(A) erred in confirming the addition of Rs. 1,11,000/- on account of unproved agricultural income.

3. Since the issues are common and connected and the appeals were heard together, these have been consolidated and disposed off together for the sake of convenience.

4. Brief facts of the case are that the assessee was a Maharashtra state Govt.employees who was then working as the Tehsildar of Panvel. The appellant claims to derive income from salary, agricultural income and from other sources. On 27./07/2006, the Anti Corruption bureau (ACB) of Thane carried out a search at the appellant's office and residential premise. A requisition of the seized materials and documents u/s. 132A of the Act was made by the investigation wing of the Income tax Department to the ACB, Thane; through the Hon. Special Court vide miscellaneous application No. 930 of 2006 dated 28/11/2006(The requisition u/s. 132A dated 15.09.2006 was executed on the SP, ACB, Thane on 20.09.2006). The court allowed photocopies of the seized materials to be handed over to the income tax department and the same was done by the ACB. Consequently, notices u/s. 153A(a) of the Act was issued by the DCIT, Central Circle-1, Thane on 04.08.2008; for AYs 2001-02 to 2006-07. For AY 2007-08, a notice was issued u/s. 153B(b) r.w.s. 143(2).

The additions made by the Assessing Officer for all the years were on account of three issues i.e. 1) Agricultural Income, 2) Difference in closing Capital Balance between the incomes filed u/s. 139 and 153A, and 3) Cash credits u/s. 68.

5. The assessee filed appeal against the additions before the Id.CIT(A). Id.CIT(A) granted relief with respect to additions which were without reference to incriminating material for certain years.. He confirmed certain addition on account of difference in capital account and agricultural income. Against which assessee is in appeal before the ITAT. It is noted that revenue is not in the appeal for the relief granted by Id.CIT(A).The addition on account of agricultural income for the impugned assessment year was made by the AO and confirmed by the Id.CIT(A). Reasoning for the same was that neither in the assessment proceeding nor in the

appeal proceedings, the actual evidence of agricultural operation being carried out by the assessee was submitted. No detail of input such as purchase of seeds, fertilizers, labour charges paid receipts were brought on record. No evidences were placed with respect to sales. It is also noted that 7/12 extracts which has been filed were in the names of the wife and son of the assessee. Moreover, authorities below found that courts have held that 7/12 extracts is not sufficient evidence for agricultural income. Hence, the addition made by the AO was sustained by the Id.CIT(A).

6. We note that none for the assessee has appeared before us. Upon hearing the Id. DR and perusing the records. We do not find any infirmity in the order of Id.CIT(A). Assessee has claimed agricultural income without any evidence whatsoever, no evidence for purchase and sale of input and output is submitted. The 7/12 extracts is also not in the name of the assessee. In this view of the matter, we do not find any infirmity in the order of CIT(A). Hence, we confirmed the same.

7. Now, we refer to the issue of difference in capital account. The difference in the capital account for the impugned assessment years has been detailed by the Id.CIT(A) as under:-

“ For AYs 2002-03, 2003-04, 2006-07 and 2007-08; the differences in the capital accounts have been examined and -reasons for the differences are tabulated as under:

A.Y	Particulars	Final	139	Difference
2002-03	Bank interest	10,688	8,539	2,149
	Interest received from Gautam Sah Bank	81000	0	81,000
	Dividend Income	900	0	900

	Total	92,588	8,539	84,049
2003-04	Bank interest	6,436 [*]	4.7S4	G02
	Interest received from Gautam Sah. Bank	9,397'	0	9,397
	Interest from Abhinav Bank	7,264 ^s	0	7.264
	Interest from IDBI (Deposit)	14,000	0	14,000
	Interest on KVP	20,000	0	20,000
	Election Duty Remuneration	11,125	0	11,125
	Total	67,222	4,754	62,468
2006-07	Salary from state govt.	2,30,102	2,27,602	2.500#
	Saving A/c Interest	4,097@	1183	2,914
	Agricultural income	1,31,000	NIL	1,31,000
	Bank Dividend	873 ^s	NIL	873 19,263
	Election Duty Remuneration	19,263	NIL	
	Postal Insurance	1,05,904 ^s	NIL	1,05,904
	Flood advance	58,827 [*]	Nil	58,827

2007-08	Capital balance		24,74,156	19,13,439	5,60,717

* Rs. 900/- on account of dividend income already offered in ROI u/s 153A

" Bank interest to the extent of Rs. 5,310/- only offered in ROI u/s 153A

^s Not offered in ROI u/s 153A # Not offered in ROI u/s 153A

@ Offered U/S 153A only to the extent of Rs. 1183/-

& Not In the nature of Income

As can be derived from that above table, for AY 2002-03 the total difference of me capital balance between that ROI u/s 139 and the final accounts filed during the appeals is Ra, 84.049/-. Out of which only Rs. 900/- which Is on account of dividend has already been offered as income u/s 153A ROI, Thus the balance of Rs. 83.140/- is the difference In the capital accounts which may be added as income for the year, Accordingly, the AO Is directed to restrict the addition made for AY 2002-03 on account of difference of capital accounts balance to Rs. 83,149/- only.

Similarly, for AY 2003-04, it is derived that out of the final figure of bank interest of Rs. 5,436/-, the income offered in 153A on account of bank interest is only Rs. 5,310/-. Further, the Interest from Abhinav Bank (Rs. 7.264/-) Interest from IDS' deposit (Rs, 14.000/-) and interest on KVP (Rs. 20,000/-) totaling Rs. 41,390/- are found to be the income which have not been offered and therefore may be added to the total Income of the appellant. The AO is directed to restrict the addition for AY 2003-04 on account of difference in capital balances to Rs. 41.390/- only.

For AY 2006-07, on the basis of the above table the taxable Income which has not been offered in 153A ROI but appearing in the final accounts is on account of salary (2,500), interest on s/b account (2,014), bank dividend (873) and agricultural incoe (1,31,000) totaling Rs. 1,37,287/- may be added an additional income for the year. The addition on account or agricultural Income of Rs. 1,31,000/- is sustained for the same reason as discussed while disallowing the claim of agricultural income for other years. For AV 2006-07, In the original ROI and al30 in the ROI u/s 153A, no claim of agricultural income was made, The AO is therefore directed to restrict the addition on account of difference In capital accounts to Rs. 1.37.287/- for AY 2006-07.

For AY 2007-08, ft is claimed on behalf of the appellant that the AO has taken wrong figures as capital balances for working out the difference of Rs. 7,37,786/-. The correct capital balance figures as per 139 and 153A ROIs is Rs. 19,13,439/- and 26,37,180/-. As per the final capital accounts submitted during appeals the balance is

24,74,156/-. Thus the difference in capital accounts between 139 ROI and the final is Rs. 5,60,717/-. The difference is explained by way of brought forward difference from AY 2006-07 to the extent of Rs. 4,71,405/- and difference in gain on sale of Dhanleela flat of Rs. 2,49,720/-. The latter is explained as under

Sale Value	10,00,000	Sale value and cost correctly taken in 139 and 153A ROIs
Cost	6,47,280	
Actual gain	3,52,720	Credited to Capital A/c (Final)
Cr. To Capital A/c	1,03,000	Credited to Capital A/c (139 and 153A ROIs)
Difference	2,49,720	Effect in closing capital to increase by 2,49,720/-

As indicated above, the reconciled difference in the closing balance is to the extent of Rs. 2,49,720/-, Thus the closing balance for the year shall increase by Rs. 2,49,720/-. The computation of Income filed for AY 2007-08 is examined and it is seen that the sale consideration for the flat at Dhanleela Apts at Rs. 10,00,000/- and a cost of Rs. 6,47,230 has been indexed for computation of net taxable gain. However, in the capital account of the appellant, credit for the sale of flat has been taken only at Rs. 1,03,000/- against an eligible credit for Rs. 3,53,000/-. Thus, it is seen that there is a short credit of Rs. 2,50,000/- In the capital account of the appellant as per ROI u/s 139. On the basis of the revised computation of the long term capital gain on the sale of flat at Dhanleela Apts, a gain of Rs. 4,29,117/- has been worked out which may be added as income for AY 2007-08. As regard to the difference in closing balance of the capital accounts for AY 2007-08 in view of what has been stated above for AY 2006-07, a benefit of Rs. 1,37,207/- being the additional income brought to tax in AY 7 may be given to the appellant along with the short credit of Rs. 2,50,000/- on the sale of flat at Dhanleela Apartment. Accordingly, out of the total difference of 5,60,171/-, the appellant shall get an allowance of Rs. 3,87,287/- (1,37,287 + 2,50,000) out of the total difference of Rs. 5,60,171/-. The AO is therefore directed to restrict the addition on account of difference in closing capital balances to Rs. 1,72,884/- for the AY 2007-08.

8. Against the above order, assessee is in appeal before us.

9. We have heard the ld. DR and none appeared on behalf of the assessee. Upon careful consideration, we find that ld.CIT(A) has duly taken into account all the factual aspect and thereafter, granted relief where he found necessary and confirmed the addition. Revenue is not in appeal against the relief granted by ld.CIT(A).

Nothing has been brought on record by the assessee in the submission regarding infirmity in the order of Id.CIT(A). Hence, we do not find any infirmity in the order of Id.CIT(A). Hence, we uphold the same.

10. In the result, these appeals filed by the assessee stands dismissed.

Pronounced in the open court on 10.03.2022

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Sd/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER

Mumbai; Dated : 10 /03/2022

Thirumalesh, Sr.PS

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai