

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC” “B”BENCH: BANGALORE**

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.66/Bang/2022
Assessment Year: 2017-18

Manjunath Gunda C/o M/s. N.H. Gunda Mahalingpur 587312 Karnataka  <b>PAN NO :AGDPG2533K</b>	<b>Vs.</b>	ACIT Circle-1 Aayakar Bhavan Near All India Raio, Athani Road Vijayapur Karnataka 586 104
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Smt. Preethi Patel, A.R.
<b>Respondent by</b>	:	Shri Ganesh R. Ghale, Standing counsel for dept.

<b>Date of Hearing</b>	:	06.04.2022
<b>Date of Pronouncement</b>	:	26.04.2022

**O R D E R**

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

The assessee has filed this appeal challenging the order dated 20.12.2021 passed by Ld. CIT(A), National Faceless Appeal Centre, Delhi and it relates to assessment year 2017-18. The only issue urged in this appeal relates to determination of taxable portion out of sale of jaggery.

2. The facts relating to the issue are stated in brief. The assessee filed his return of income declaring a total income of Rs.25,15,780/- and agricultural income of Rs.58,58,889/-. The A.O. noticed from the breakup details of agricultural income given by the assessee that the assessee has sold jaggery for Rs.6,06,563/-

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and treated the entire sale proceeds as agricultural income. The A.O. held that the sale of jaggery is a business activity and accordingly, opined that the assessee should have determined business income out of the said sale. Accordingly, he proceeded to determine the taxable portion out of sale proceeds of sale of jaggery.

3. The A.O. noticed that the total quantity of sugar cane raised by the assessee during the year under consideration was 1475.60 tons, out of which 1260 tons were sold to sugar factories. Accordingly, the remaining 215.60 tons was used for manufacturing of jaggery. The A.O. noticed that the assessee has incurred agricultural expenditure aggregating to Rs.14.63 lakhs, which pertained to raising of sugar cane as well as other crops. Out of the above said amount of Rs.14.60 crores, the A.O. determined the proportionate expenditure attributable to raising sugar cane at Rs.9,94,117/- (for 1475.60 tonnes of sugar care). Accordingly, the expenditure pertaining to 215.60 tons was determined by him at Rs.1,45,249/-. The A.O. deducted the same from the sale proceeds of jaggery of Rs.6,06,563/- and accordingly, determined the net profit from jaggery business at Rs.4,61,314/-. The A.O. added the same to the income returned by the assessee. The Ld. CIT(A) also confirmed the same.

3. I heard the parties on this issue and perused the record. I notice that Rule 7 of Income Tax Rules deals with the manner of computation of income when the proceeds are partially agricultural and partially from business. Rule 7(1) reads as under:-

***“Income which is partially agricultural and partially from business***

***7(1) In the case of income which is partially agricultural income as defined in section 2 and partially income chargeable to income-tax under the head “Profits and gains of business”, in determining that part which is chargeable to income-tax the market value of***

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*any agricultural produce which has been raised by the assessee or received by him as rent-in-kind and which has been utilized as a raw material in such business or the sale receipts of which are included in the accounts of the business shall be deducted, and no further deduction shall be made in respect of any expenditure incurred by the assessee as a cultivator or receiver of rent-in-kind.”*

I notice that, as per Rule 7(1) of the I T Rules, what is required to be deducted is the market value of agricultural produce which has been utilized as raw material. I noticed that the AO has not deducted the market value of 215.60 tonnes of sugar cane from the sale proceeds, but has deducted only proportionate agricultural expenses claimed by the assessee. Hence the workings given by the AO, which was upheld by Ld CIT(A), are not in accordance with Rule 7(1) of the I T Rules.

4. From para (ii) at page 9 of the assessment order, I notice that the average market rate of sugarcane realized during the year under consideration was determined by the AO himself at Rs.3,410/- per Mts. Hence the AO should have determined the market value of 215.60 tonnes by adopting the market rate of Rs.3,410/- per Mts. Accordingly, the business income should have been determined by the AO as under:-

Sale value of jiggery	-	6,06,563
Less:- Market value of 215.60 Mts		
(215.60 x Rs.3,410/-		7,35,196
		-----
Business loss	(-)	1,28,633
		=====

It can be noticed that the assessee has incurred loss of Rs.1,28,633/- as per the workings computed under Rule 7(1) of the Act. From the written submissions filed by the assessee before the AO, the assessee has claimed further expenditure of Rs.1,21,872/- towards conversion expenses. In effect, the assessee has incurred

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only loss from the business of sale of jaggery and hence the AO was not justified in determining the business income at Rs.4,61,314/- without following the methodology prescribed under Rule 7(1) of I T Rules and assessing the same. Accordingly, the Ld CIT(A) was also not justified in confirming the said addition.

5. In view of the above, I set aside the order passed by Ld CIT(A) on this issue and direct the AO to delete the addition of Rs.4,61,314/- referred above.

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

Order pronounced in the open court on 26<sup>th</sup> Apr, 2022

**Sd/-**  
**(B.R. Baskaran)**  
**Accountant Member**

Bangalore,  
Dated 26<sup>th</sup> Apr, 2022.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**