

**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH : BANGALORE**

**BEFORE SHRI. CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

| Appeal No. | Appellant | Respondent | Assessment Year |
|---------------------------|---|--|------------------------|
| ITA No. 1053/Bang/2019 | The Income Tax Officer, Ward – 6 (3)(4), Bangalore. | Shri Narayana, No. 131, B.B. Road, Behind Church, Venkatala, Yelahanka, Bangalore – 560 064. PAN: ATCPS2388L | 2014-15 |
| ITA No. 662/Bang/2019 | Shri V Narayana Reddy, # 110, Ganapathihalli, Chunchanakuppe Post, Janatha Colony, Bengaluru – 562 130 PAN: AKYPR5430K | The Income Tax Officer, Ward – 6(3)(4), Bangalore. | 2014-15 |
| ITA No. 663/Bang/2019 | | | 2015-16 |

| | | |
|-------------|---|--|
| Assessee by | : | Shri G.S. Prashanth, CA |
| Revenue by | : | Shri Priyadarshi Mishra, Addl. CIT (DR) |

| | | |
|-----------------------|---|------------|
| Date of Hearing | : | 28-03-2022 |
| Date of Pronouncement | : | 31-05-2022 |

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER

Present cross appeals are filed by assessee as well as revenue against separate orders dated 04.02.2019 passed by Ld.CIT(A)-6, Bangalore for Assessment Years 2014-15 and appeal filed by assessee for A.Y. 2015-16 against order dated 05.02.2019 passed by Ld.CIT(A)-6, .

2. For the sake of convenience, we reproduce grounds raised by assessee for A.Y. 2014-15 as under:

| Sl. No. | GROUNDS OF APPEAL | Tax Effect in Rupees |
|---------|---|-------------------------|
| 1. | <p>a) The orders of the authorities below in so far as these are against the Appellant is opposed to law, weight of evidence, natural justice, probabilities, facts and circumstances of the Appellant's case.</p> <p>b) The appellant denies himself to be assessed on a total income of Rs. 4,13,10,675/-/- as against Rs.Nil returned by the appellant under the facts and circumstances of the case.</p> | - |
| 2. | <p><u>Taxation of Agricultural Income of Rs.51,66,967/-</u></p> <p>a) The learned CIT(A) erred in confirming the addition of agricultural income amounting to Rs.51,66,967/- made by the assessing officer under the facts and circumstances of the case.</p> <p>b) The authorities below failed to appreciate that the expenditure incurred was essential to generate revenue and thus the addition made needs to be deleted under the facts of the case.</p> <p>c) Without prejudice, the addition made is extremely high and needs to be reduced substantially under the facts and circumstances of the case.</p> | 15,34,793/- |
| 3. | <p>a) The authorities below failed to appreciate that the certificate of the Tehsildar /RTC for the lands at Tumbakere village could not be produced since such lands were in dispute before the Karnataka Appellate Tribunal and thus the addition made in this regard is bad in law and needs to be deleted under the facts and circumstances of the case.</p> <p>b) The action of the authorities below in not undertaking physical verification of lands despite the specific request of the appellant is bad in law and consequently, the addition made needs to be deleted in the interest of equity and justice.</p> | - |
| 4. | <p>The authorities below failed to appreciate that the appellant being an agriculturalist was not mandated under law to maintain books of accounts and therefore addition made on this basis needs to be deleted under the facts of the case.</p> | - |

| | | |
|----|---|------------|
| 5. | <p>a) The authorities below failed to take cognisance of the irrevocable Power of Attorney executed in the name of the appellant by his father permitting him to cultivate the impugned lands and the addition made on the basis of uncertain ownership of such lands needs to be deleted under the facts of the case.</p> <p>b) The assessing officer erred in doubting the legal rights of the appellant over the agricultural lands belonging to his father at the time of concluding the interest of equity and justice.</p> <p>c) The action of the CIT(A) in not taking cognisance of the affidavit pertaining to the legal rights of the appellant over the agricultural lands of his father is untenable in the eyes of law and consequently the order of the CIT(A) needs to be quashed under the facts of the case.</p> <p>d) Without prejudice, the authorities below ought to have appreciated that ownership of lands is not a prerequisite for claiming exemption of agricultural income under the provisions of the Act and therefore the addition made needs to be deleted in the interest of equity and justice.</p> | - |
| 6. | <p>a) The appellant denies himself liable to be levied interest under section 234B of the Act and further the computation of interest was not provided to the appellant as regard to the rate, period and method of calculation of interest under the facts and circumstances of the case.</p> <p>The appellant expressly urges that the period of levy of interest is not in accordance with section 234B of the Act.</p> <p>b) Without prejudice, the interest levied under section 234B of the Act requires to be waived off under the facts and circumstances of the case.</p> | 5,52,525/- |
| 7. | The appellant craves leave to add, alter, delete or substitute any of the grounds urged above. | - |
| 8. | In view of the above and other grounds that may be urged at the time of the hearing of the appeal, the appellant prays that the appeal may be allowed in the interest of justice and equity. | - |

3. **Brief facts of the case are as follows:**

3.1 The assessee filed its return of income for A.Y. 2014-15 on 28.09.2014 declaring total income at Nil. The case was selected for scrutiny to verify the agricultural income, substantial increase in the capital, high interest expenditure against new capital added in work in progress or addition made to fixed assets and mismatch between income / receipt credited to P&L account considered under

other heads of income and income from heads of income other than business / profession. Notice u/s. 143(2) was issued to produce evidence in support of the return filed. In response to statutory notice, representative of assessee appeared before the Ld.AO and furnished the details. During the assessment proceedings, the Ld.AO noted that assessee was owning two nurseries i.e. i) Rose Farm and Nursery at Kethohalli, Malagondanahalli, Shibannahalli and Tumbakere village in Mandya Dist. and ii) RF Dreamland Farms and Nurseries at Gejjalegere village, Maddur both in the state of Karnataka.

3.2 The Ld.AO noticed that assessee declared agricultural income amounting to Rs. 1,01,66,967/- and Rs. 84,06,309/- respectively earned from the two nurseries to be exempt during the year under consideration.

3.3 It came to the notice of the Ld.AO that assessee was carrying out nursery operations on the land purchased by his father being the nursery at Tumbakere village, Mandya Dist. The assessee received power of attorney in respect of the said land from his father, prior to his death. The Ld.AO noticed that assessee could not produce the records of right documents pertaining to such land, since the matter was under litigation, and was pending before the Karnataka Land Reforms Appellate Tribunal.

3.4 The Ld.AO observed that, out of approx. of 24 acres, the land was in dispute was approx. 15 acres and assessee submitted details in respect of only 11 acres 5 guntas against which the RTC certificate and copies of the sale deed submitted by assessee were alleged to be not correct.

3.5 Before the Ld.AO, assessee submitted that the predecessor visited the said nurseries at Kethohalli and Malagondanahalli

village. Assessee also brought to the notice of Ld.AO that a bank loan was availed to carryout the agricultural activities in order to substantiate the agricultural income claimed by assessee.

3.6 In order to verify the agricultural income earned, claimed to be exempt vis-a-vis, the land, the Ld.AO called for bill books, receipts and ledger extracts. The assessee only submitted two bill books for verification from which the Ld.AO computed the difference being Rs. 1,26,45,468/- for A.Y. 2014-15. The Ld.AO further observed that amongst the above discrepancy, certain bills were taken to be accounted during F.Y. 2012-13 amounting to Rs. 6,77,860/-. The Ld.AO thus treated sum of Rs. 1,33,23,328/- (1,26,45,468 + 6,77,860/-) to be unexplained bills and added it u/s. 68 of the Act.

3.7 Aggrieved by the order of Ld.AO, assessee preferred appeal before Ld.CIT(A).

4. The Ld.CIT(A), after considering the entire submissions of assessee observed and held as under:

“6.2.1 Grounds of appeal nos.1 to 7 all relate to the appellant's claim of having earned agricultural income from nursery operations and are hence adjudicated together. The appellant has submitted that his claim for agricultural income had been accepted in scrutiny assessment of earlier years viz. 2011-12 and 2013-14, and hence the same should be accepted for the current year as well. The AO's stand that each assessment year constitutes a separate proceedings and that he is not bound by the earlier years' findings is in keeping with settled law and is endorsed. Further, it is noted that the assessment for A.Y.2013-14 has been revised u/s 143(3) r.w.s. 263 and certain portion of the agricultural income claimed has been treated as income from other sources. Hence the appellant's plea for applying the rule of consistency to his assessments is not accepted. Also, the appellant has repeatedly agitated the contention that the visit by the then AO to his farms during the assessment proceedings for A.Y. 2013-14 validates his claim of agricultural income in A.Y. 201415. However, as pointed out by the AO, his predecessor had visited only two of the

farms of the appellant (Kethohalli and Malligondanahalli), a fact that is not disputed by the appellant. Thus it cannot be conclusively stated the appellant is carrying out nursery operations on the entire holding as claimed by him since the site visit of the AO. on which reliance is placed, was limited to two farms and not the entire holding.

6.2.3 This brings us to the issue of proof of holding and cultivation of 15 acres 9 guntas of land at Tumbakere village in Mandya district over which the appellant had been given the irrevocable Power of Attorney by his late father who had purchased the land. It was submitted by the appellant that after the purchase of the land by his father between 2005 and 2010. the Asst. Commissioner, Mandya Sub Division initiated proceedings under Sec.79 (A) &(B) of Karnataka Land Reforms Act and Amended Act, 1974. As per this provision "the acquisition of agricultural land by a person the state of Karnataka is prohibited if the annual income of that person or his family or joint family is more than Rs 2 lakhs from sources other than from agriculture for a period of 5 consecutive years preceding the date of acquisition of the land". The Asst. Commissioner subsequently passed an order for confiscating the lands. Against the said order, Shri B. Venkatarama Reddy, the appellant's father, filed an Appeal before Karnataka Appellate Tribunal (KAT)(Appeal No.923/2010) which is still pending before KAT and no order is passed as on date. The appellant has submitted that due to the ongoing litigation, the R.T.C. (Record of Rights, tenancy and cultivation) is not issued by the Tahsildar in the name of B. Venkatarama Reddy or his successors in title but the nursery business is going on as usual. It was further submitted that the appellant continued to cultivate the said land after the death of his father and declared the income in his income tax return. This arrangement was done with the approval of other legal heirs of Late B. Venkatarama Reddy which is evidenced by the affidavit consenting this arrangement given by thehi. Though the appellant has submitted the affidavit from the remaining family members during appellate proceedings, no reasons have been given as to why the same was not produced before the AO. The appellant has not satisfied the conditions under Rule 46A(1) for admission of additional evidence in the form of the affidavit and hence the same is not admitted in appellate proceedings. Further, it is noted that none of the bank document copies submitted contain any reference to the Tumbakere land. As such, the appellant's ownership of this land at Tumbakere village is not certified in any way

as the appellant has not been able to produce the record of rights in respect of this land. The appellant's insistence that the AO should have undertaken a site visit to verify the genuineness of his claim of possession of this land is misplaced since the primary onus of proving his ownership and cultivation of the land has not been discharged by the appellant. Further, it is observed from the Irrevocable General PoA dated 02/04/2011 that the appellant's father had authorised him to represent him in various litigation and other registration matters, carry out agricultural operations on the said land and also apply for conversion of the land for non-agricultural purpose and enter into a Joint Development Agreement for the purpose of developing a layout. Hence the land use of the said land cannot be taken to be solely for agricultural purpose and in the absence of the RTC, the fact of agricultural operations on this land is also not established. It is also observed from the copy of the appeal filed in the Karnataka Appellate Tribunal against the order of the Asst. Commissioner, Mandya, confiscating the land that the total area of the disputed land is 11 acres and 1 and a 1/2 guntas as detailed below:

Sy. No. 70/ 4E-141 measuring about 2 acre, Sy.No. 70/P154 measuring about 2 acre Sy.No. 70/ P36 measuring about 1 acre 1/2 guntas, Sy.No. 70/ P16 measuring about 1 acre 1/2 gunas, Sy.No. 70/ 23 measuring about 1 acre 1/2 guntas. Sy.No. 70/ P23 measuring about 2 acre and in Sy. No. 70/ P23, measuring 2 acres of Tumabakere village

Hence the appellant's claim that he is carrying out nursery operations on 15 acres 9 guntas of land at Tumbakere village, Mandya is not corroborated by the facts stated in the appeal filed before the KAT.

6.2.4 However, in respect of the remaining land which pertains to the farms at Kethohalli, Malligondanahalli, Shibannahalli and Gejjalegere, the appellant has provided record of rights and copies of sanction letters from the banks regarding working capital limits and agricultural credit. Per the AO, the bank documents do not substantiate the appellant's claim that nursery operations were being carried out on the land. However, confirmations dated 18/08/2017 have been given by both HDFC bank and Corporation Bank that the purpose of the loan/overdraft is for ornamental plants nursery. Further, botf confirmations state that the loan/overdraft are being maintained since 2010. The appellant has submitted copies of the Credit Sanction Intimations issued by Corporation Bank on

03/05/2013 and 30/11/2013 which state that the purpose of the credit is for business purpose (ornamental plant nursery). The appellant has also submitted copy of cash credit sanction dated 13/06/2013 for Rs.1.4 crores in respect of the Gejjalegere farm in which it is stated that the credit is being given against the hypothecation of stock of ornamental plants and movables such as fertilizers, pots, manures, etc. In respect of working capital credit and term loan for infrastructure from HDFC Bank in respect of Kethohalli and Malligondanahalli farms, the appellant has submitted copies of sanction letters dated 20/12/2010 and 07/06/2010 respectively for which again the security is mentioned as stock, green shade houses, mother plants. The appellant has also submitted photographs of the nursery/nurseries that are being run by him. The fact of the appellant's nursery operations is borne out by the above evidence and the same is accepted in respect of the Kethohalli, Gejjalegere and Malligondanahalli farms.

6.2.5 Having accepted that the appellant is carrying out nursery operations at least in respect of 11 acres 5 guntas on which the above farms are situated, the question of turnover of agricultural operations and the income there from is to be addressed. Here the appellant has stated that he is not maintaining any systematic record of his cash sales and cash expenses. He has also not been able to link his cash deposits in the bank with sales surplus after meeting expenses. Under the circumstances, the AO is justified in querying the appellant's method of estimating his agricultural income. On the one hand, the appellant claims that he is not required to maintain books of accounts for his agricultural income and on the other, he is reporting a huge turnover of Rs.6.14 crores and expenses of Rs. 5.04 crores based on kutchra records. The appellant has also submitted copies of self-certified stock statements submitted to the bank which mention the monthly sales figures. It is seen from these statements that round figures e.g. 520 lakhs, 8 lakhs, 42 lakhs, etc. are written as the value of the stock, book debts and monthly sales respectively. In some of the monthly statements of Rose Farm and Nursery, the month for which the stock statement is prepared is not mentioned. In the case of the R.F. Dreamland Farm and Nursery, the statements are not signed by the proprietor. It appears that these statements are prepared in a very rudimentary fashion for the purpose of meeting the banks' approval for credit but they cannot be taken as a definitive indicator of the value of stock or monthly sales as claimed by the appellant. No stock statements certified by the bank have been submitted. The

appellant has "also submitted that he estimates the approximate value of stock based on physical verification but at the same time claims that he cannot do a detailed physical verification because of the large number of plants at different locations. Thus there is room for manipulation of the stock figures and the appellant's method of declaring the value of his closing stock cannot be taken to be exact or accurate.

6.2.6 Likewise, the appellant has not maintained bills for cash purchases of various inputs like manure, pots, etc. and also for transportation expenses nor maintained a proper record of salary and wages payment. The following terms and conditions for working capital credit extended to M/s Rose Farm and Nursery by SBI Rajarajeshwari Nagar branch (copy of the proposal for renewal of the credit for F.Y. 2011 has been submitted) are illuminating:

"G. Other critical covenants:

- The applicant should submit stock statement indicating the species wise plants stocked, inputs stocked at monthly interval. The branch should conduct surprise stock verification as the applicant is also having five other units and inter unit transfer of stock will be taking place.*
- The receivable financing should be supported by proper invoice issued by the applicant for having supplied the plants*
- The applicant should always maintain 30% margin as his stake in the venture*
- All the transactions including cash sales should be routed through the account*
- The applicant should plan to have his own mother plants plot to reduce the cost of planting material*
- The purchase of mother plants should be supported by proper invoice from the supplier. No cash purchase should be permitted. Cash purchase of other inputs also should be discouraged."*

It is clear that the appellant has not been complying with several of the above conditions and hence his claim that he need not have maintained a proper record of his purchases and sales is not accepted .

6.2.7 At para 5 of the assessment order the AO has listed out a set of invoices from the two bill books submitted before him which as per the AO have been tampered with by adding double entries of the previous period. Per the AO, the actual entries in most of the bills were raised for a small amount and subsequently, the same were altered by adding entries relating to earlier periods involving bigger amounts. The appellant has submitted that on some of the invoices he had written arrears due from some buyers and

that these amounts were not considered for computing the sales figures. During the appellate proceedings the appellant had submitted invoice-wise details of sales made for the total turnover claimed and a perusal of the same indicates that only the sales amount has been taken and not the arrear amount. It is also noted that the AO refers to the bill books submitted on 28/12/2016 whereas the assessment order is dated 16/12/2016. Hence an addition made on this basis cannot be sustained.

6.2.8 Further, the AO has added back the entire purchases as well as the entire salaries and wages and transportation expenses claimed by the appellant as unexplained expenditure u/s 69C. No doubt the appellant has not maintained proper records of the same and a large proportion of these expenses have been incurred in cash. However, some of the inputs purchases have been made through cheque and therefore adding back the entire purchases would not be correct. There is force in the appellant's argument that he has incurred such expenses in order to earn the said agricultural income and the receipts from the sale of plants, part of which were deposited in the bank, are the source of funds for the purchases and related expenses. The case laws relied upon by the AO for adding back the purchases and expenses u/s 69C have all been rendered in different context and do not relate to agricultural operations. Hence the action of the AO in treating the entire purchases as well as the entire salaries and wages and transportation expenses amounting to Rs.3,78,70,182/- as unexplained expenditure u/s 69C cannot be upheld.

6.2.9 However, as rightly pointed out by the AO, the appellant has not substantiated with proper documentation his claim of having earned net agricultural income of Rs.1,01,66,967/-. A substantial part of the appellant's nursery operations is conducted through cash transactions and as with the stock statements, in the absence of proper documentation, the appellant's claims regarding his turnover and expenses cannot be accepted in their entirety. The appellant also did not produce all the bill books showing sales turnover or vouchers, bills, etc. for purchases, wages, transportation expenses during the assessment proceedings. Further, even in respect of the 11 acres 5 guntas of land for which the RTC was produced, there was some discrepancy w.r.t. the crop cultivated, which the appellant has claimed he had overlooked while obtaining the details from the tahsildar.

6.3.1 To sum up, the fact of nursery operations and ownership of the appellant over land measuring 11 acres 5

guntas is substantiated. However, the appellant has also not bothered to maintain proper documentation in respect of his agricultural sales claimed to be of more than Rs.6 crores and expenses incurred on his agricultural operations amounting to more than Rs.5 crores. In view of the several inconsistencies/lacunae in the appellant's estimation of his agricultural income as detailed above, it would be appropriate to make a lumpsum addition out of agricultural income as the appellant's income from other sources and restrict the appellant's claim of agricultural income. In the case of B. Ramachandhiran vs C/T. Chennai. (2014) 43 taxmann.com 430 (Madras), the Hon'ble High Court of Madras held that the onus of proving that receipt of income was out of agricultural income was entirely on the assessee and as the assessee had not discharged such onus, the Tribunal was justified in restricting his claim of agricultural income. Similarly, in the case of Prem Sundan vs CIT (2014) 42 taxmann.com 178 (Allahabad), the Hon'ble High Court of Allahabad held that the assessee should maintain accounts pertaining to the entire agricultural activity and where the assessee in support of her claim of agricultural income failed to produce certificate of Tehsildar and accounts pertaining to agricultural activities, the revenue authorities were justified in rejecting the said claim of the assessee. It is also noted that the same AO has, for the succeeding A.Y. 2015-16, based on similar facts, adopted an approach of restricting the appellant's claim of agricultural income.

6.3.2 In the present case, the appellant has returned net agricultural income of Rs.1,01,66,967/- after deducting the above purchases, salary and wage and transportation expenses and interest expenses of Rs. 48,63,511/- paid to bankers. Taking the entire matrix of facts into consideration including the unproven claim of agricultural operations on the Tumbakere land, the appellant's agricultural income is restricted to Rs.50 lakhs and the balance amount of Rs. 51,66,967/- is added to the appellant's income as his income from other sources.”

5. Aggrieved by the above view of the Ld.CIT(A), assessee is in appeal before this *Tribunal*.

6. We note that the Ld.CIT(A) has not admitted the additional evidence filed by assessee as has been recorded in para 6.2.3. The Ld.AR has submitted that the documents filed by assessee as additional evidence in respect of the ownership of the lands at

Tumbakere village which was originally owned by assessee's father on which activities were alleged to be carried out by assessee based on a power of attorney dated 02.04.2011. The Ld.CIT(A) has not accepted the claim of assessee in respect of the land at Tumbakere village amounting to 15 acres and 9 guntas.

7. In respect of the balance land amounting to 11 acres and 5 guntas, we note that the Ld.AO has estimated the agricultural income as assessee has not maintained any systematic record of cash sales and cash expenses. The argument of the assessee that bank loan has been availed in order to carryout the activities has not been accepted based on the reasoning that merely because a loan is granted to assessee does not support the agricultural activity to be carried out by assessee. Admittedly, assessee has not maintained proper books of accounts in respect of the purchases, sales etc. However before this *Tribunal*, assessee has given a chart declaring the status of various A.Ys. from 2011-12 to 2017-18 as reproduced herein below.

| Assessment Year | Agricultural turnover as per return | Agricultural income declared by the appellant | Agricultural income accepted in the assessment order | Agricultural income treated as business income in the assessment order | Details of assessment | Current status |
|-----------------|-------------------------------------|---|--|--|---|---|
| 2011-12 | 5,46,12,000 | 1,33,59,515 | 1,33,59,515 | Nil | Assessment order dated 12.09.2013 passed under section 143(3) by ITO Ward-2(2), Bengaluru | Entire agricultural income declared by the appellant is accepted |
| 2012-13 | 5,02,93,700 | 50,95,161 | - | - | - | Return of income filed by the appellant has been accepted |
| 2013-14 | 6,43,01,425 | 1,11,80,838 | 1,11,80,838 | Nil | Assessment order dated 27.01.2016 passed u/s 143(3) by ITO Ward-6(3)(4) Bengaluru | Entire agricultural income declared by the appellant was accepted |

| | | | | | | |
|---------|-------------|-------------|-----------|-------------|---|--|
| 2013-14 | 6,43,01,425 | 1,11,80,838 | 80,00,000 | 31,80,838 | Assessment order dated 31.12.2018 passed under section 143(3) r.w.s. 263 by ITO Ward-6(3)(4) Bengaluru | Being aggrieved by the order of assessment under section 143(3) r.w.s. 263 the appellant has preferred an appeal before the Hon'ble CIT(A)-6, Bengaluru which is pending adjudication. |
| 2014-15 | 6,14,50,760 | 1,01,66,967 | - | 6,37,49,872 | Assessment order dated 16.12.2016 passed under section 143(3) by ITO Ward- 6(3)(4) Bengaluru | The Hon'ble CIT(A) gave substantial relief to an extent of Rs.5,85,82,905/- and sustained only Rs.51,66,967. Aggrieved by the order of CIT(A), the appellant has filed the impugned appeal before your Honour. |
| 2015-16 | 6,36,24,494 | 84,06,309 | 40,00,000 | 44,06,309 | Assessment order dated 29.12.2017 passed under section 143(3) by ITO Ward-6(3)(4) Bengaluru. Assessment order for AY2014-15 and 2015-16 are passed by the same AO | The Hon'ble CIT(A) dismissed the appeal filed by the appellant. Aggrieved by the order of CIT(A), the appellant has filed the impugned appeal before your Honour. |
| 2016-17 | 5,49,46,660 | 78,17,074 | - | - | - | Return of income filed by the appellant has been accepted |
| 2017-18 | 7,07,79,200 | 68,40,475 | - | - | Assessment order dated 17.12.2019 passed under section 143(3) by ITO Ward-6(3)(3), Bengaluru | Entire agricultural income declared by the appellant is accepted |

8. We note that for A.Y. 2014-15, the Ld.AO adopted gross agricultural income and made additions aggregating to Rs.6,37,49,872/- whereas for A.Y. 2015-16, the Ld.AO considered net agricultural income of Rs.84,06,309/- and restricted the claim of agricultural income to Rs. 40 Lakhs by treating the balance claim as income from other sources. Before us, the Ld.AR has submitted that assessee has furnished records of rights for about 11 acres of land owned by him (Refer pages 582 to 590 of the paper book filed on 2503.2022) and also submitted land documents relating to about 16 acres owned by his father Late Shri Venkatarama Reddy (Refer pages 591 to 639

of the paper book filed on 25.03.2022) along with the irrevocable power of attorney executed by his father in favour of the appellant to carry out the agricultural operations before the assessing officer (Refer pages 447 to 464 of the paper book filed on 25.03.2022).

9. The Ld.AO at one point of time for A.Y. 2014-15, in the assessment order has stated that even if it is agreed that assessee carried out all the activities as has been claimed on the total lands, it is himself to arrive at such huge turnover. The Ld.AR submitted that this observation by the assessing office is without any basis. He has tabulated the details of the land cultivated and agricultural income earned from such land for the years under consideration as under:

| (Amount in rupees) | | |
|--|--------------|--------------|
| Particulars | A.Y. 2014-15 | A.Y. 2015-16 |
| Gross Agricultural income (A) | 6,14,50,760 | 6,36,24,494 |
| Less: Expenditure incurred (B) | 5,12,83,793 | 5,52,18,185 |
| Net Agricultural income (C = A-B) | 1,01,66,967 | 84,06,309 |
| Area of cultivated land (in acres) (D) | 26.25 acres | 26.25 acres |
| Average gross agricultural income per acre (E=A/D) | 23,40,981 | 24,23,790 |
| Average net agricultural income per acre (F = C/D) | 3,87,313 | 3,20,240 |

10. We note that there is inconsistency in determining the turnover for the years under consideration by the Ld.AO also observing that the additional income filed by assessee in respect of the rights on the land that was originally owned by assessee's father has not been admitted even though the same is under dispute. It is also observed from the paper book that assessing officer has accepted the agricultural income offered by assessee for A.Ys. 2011-12 and 2017-18 which is on similar facts. The

assessee is directed to give the details of agricultural land and crops cultivated, gross income earned out of agricultural operations, details of expenditure to earn such income and copies of RTC of the lands to prove the ownership or lease agreements copies to be submitted in order to establish that agricultural / nursery activity is carried out by the assessee.

11. Under such circumstances, we deem it proper to remit this issue back to Ld.AO to consider it *de novo*. Assessee is directed to file all requisite details in support of this claim as detailed hereinabove which shall be verified by the Ld.AO in accordance with law.

12. Needless to say that proper opportunity of being heard must be granted to assessee in accordance with law.

13. The Ld.AO is directed to compute the agricultural income based on the evidences filed by assessee in accordance with law.

Accordingly, the appeals filed by assessee as well as revenue stands allowed for statistical purposes.

In the result, the appeals filed by assessee and revenue stands allowed for statistical purposes.

Order pronounced in open court on 31st May, 2022.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(BEENA PILLAI)
Judicial Member

Bangalore,
Dated, the 31st May, 2022.
/MS /

Copy to:

1. Appellant
2. Respondent
3. CIT

4. CIT(A)
5. DR, ITAT, Bangalore
6. Guard file

By order

Assistant Registrar,
ITAT, Bangalore