

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S. S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1312/PUN/2019
निर्धारण वर्ष / Assessment Year: 2012-13

Anil Govindrao Hotwar, 9, Tulshi Apartment, Samarth Nagar, Near Zilla Parished, Jalna- 431203. PAN : AACPH7549F	Vs.	ITO, Ward- 1, Jalna.
Appellant		Respondent

Assessee by : Shri K. Srinivasan
Revenue by : Shri Arvind Desai

Date of hearing : 31.05.2022
Date of pronouncement : 06.06.2022

आदेश / ORDER

PER INTURI RAMA RAO, AM:

This is an appeal filed by the assessee directed against the order of Id. Commissioner of Income Tax (Appeals)- 1, Aurangabad [‘the CIT(A)’] dated 01.01.2018 for the assessment year 2012-13.

2. Briefly, the facts of the case are that the appellant is an individual deriving income from hire charges of JCB Machines. The return of income for the assessment year 2012-13 was filed on 30.09.2012 declaring total income of Rs.2,65,050/-. Against the said return of income, the assessment was completed by the Income

Tax Officer, Ward-1, Jalna ('the Assessing Officer') vide order dated 09.03.2015 passed u/s 143(3) of the Income Tax Act, 1961 ('the Act') at total income of Rs.7,90,150/- after making disallowance of Rs.5,25,100/- on account of salary and machinery maintenance expenses. The Assessing Officer disallowed the same by holding that the rental income was shown not under the head "business" but shown under the head "other sources".

3. Being aggrieved by the above addition, an appeal was preferred before the Id. CIT(A), who vide impugned order confirmed the addition on the ground that the appellant had not furnished the details of salaries and machinery maintenance expenses, not produced vouchers in respect of such expenditure nor the mode of payments and also failed to prove that such expenditure was incurred wholly and exclusively for the purpose of earning income offered to tax under the head "income from other sources".

4. Being aggrieved by the above decision of the Id. CIT(A), the appellant is in appeal before us.

5. The Id. AR submits that there is no requirement under law to maintain the books of accounts when the turnover of the assessee does not exceed the prescribed limit. Even in the absence of books of accounts, no income can be earned under the head "other

sources” without incurring of any expenditure. The expenditure under the head ‘salaries and fuel expenses as claimed are incurred wholly and exclusively in connection with JCB hire charges. Therefore, the lower authorities had clearly fell in error in disallowing the same.

6. On the other hand, ld. Sr. DR placing reliance on the orders of the lower authorities submitted that the order of the ld. CIT(A) is reasoned one and need not be interfered with.

7. We heard the rival submissions and perused the material on record. The issue in the present appeal relates to the allowance of expenditure claimed against the income of JCB hire charges offered under the head “income from other sources”. It cannot be said that the hire charges from JCB can be earned without incurring any expenditure on salaries and fuel expenses etc. No doubt, the appellant had not adduced any evidence in support of incurring of such expenditure, but merely because, the appellant was not able to produce the evidence, it does not lead to conclusion that the appellant had not incurred any expenditure to earn such income. There is no obligation under law to maintain any books of accounts etc. since the turnover of appellant has not exceeded the prescribed limit. The Assessing Officer as well as the ld. CIT(A) had chosen

to disallow the entire expenditure without appreciating the fact that no income of hire charges can be earned without incurring expenditure on salaries and fuel etc. This approach of lower authorities is most unreasonable and arbitrary. In the circumstances, the disallowance of Rs.5,25,100/- cannot be upheld and, accordingly, we direct the Assessing Officer to delete the same. Thus, the present issue/ground raised by the assessee stands allowed.

8. In the result, the appeal filed by the assessee stands allowed.

Order pronounced on this 06th day of June, 2022.

Sd/-
(S. S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 06th June, 2022.

Sujeet

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Aurangabad.
4. The Pr. CIT-1, Aurangabad.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.