

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ITA No.59/Chny/2021
(निर्धारण वर्ष / Assessment Year:1993-94)

M/s. Sasi Enterprises C/o. Mr. K. Soundaravelan (FCA) 16 Gyan Apartments, 38 Venkatraman Street, T. Nagar, Chennai – 600 017.	बनाम/ Vs.	DCIT Central Circle-2(2), Chennai.
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. AACFS-4669-P		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri T. Vasudevan(Advocate) – Ld. AR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri ARV. Sreenivasan(Addl. CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	19-05-2022
घोषणा की तारीख / Date of Pronouncement	:	08-06-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 1993-94 arises out of the order of learned Commissioner of Income Tax (Appeals)-18, Chennai [CIT(A)] dated 28.02.2020 in the matter of assessment framed by the Ld. Assessing Officer [AO] u/s. 144 of the Act on 30.11.2007. The grievance of the assessee is two-fold i.e., (i)

agricultural income of Rs.2,16,850/- has been assessed as 'income from other sources'; (ii) Refund of advance of Rs.3.70 Lacs has been added to the income of the assessee. This is second round of appeal before Tribunal since the matter in the first round, in revenue's appeal, was set-aside to the file of Ld. AO to decide the issues afresh.

2. The Registry has noted a delay of 307 days in the appeal, the condonation of which has been sought by the assessee on the strength of condonation petition. The Ld. AR submitted that delay occurred due to lockdown situation arising out of Covid-19 Pandemic. Keeping in view the order of Hon'ble Supreme Court in Suo Motu Writ Petition SMW(c) No.3/2020 dated 23.03.2020 and subsequent orders passed from time to time, the period starting from 15.03.2020 till 28.02.2022 has been excluded by Hon'ble Court while computing the period of limitation, we condone the delay and admit the appeal for adjudication on merits.

3. The Ld. AR advanced arguments and assailed the additions which have been controverted by Ld. Sr. DR. Having heard rival submissions, our adjudication, to the impugned issues, would be as given in succeeding paragraphs. The assessment has been framed by Ld. AO on best judgment basis u/s 144 since the assessee failed to file the requisite documents and information. The assessee had not filed any regular return of income for the year under consideration. The assessee is a resident firm and it has been assessed as an unregistered firm since it failed to file partnership deed.

4. The case of the assessee was reopened and notice u/s 148 was issued on 15.02.1994 which remained non-complied by the assessee. The assessee's representative merely submitted computer print-outs of various statements.

5. Agricultural Income Treated as Income from Other Sources

5.1 The assessee reflected agricultural income of Rs.2,16,850/- which was stated to be earned out of 30.70 Acres of land taken on lease at Maharaja Puram / Poyapakkam Village from one Shri TSR Vasudevan. The assessee filed copy of lease agreement dated 01.04.1990 and also affidavit of Shri TSR Vasudevan. It also filed a certificate from Tehsildar Villupuram etc. during appellate proceedings in first round to support the fact that the income was agricultural income. However, the assessee failed to produce original documents. In the absence of any material evidences forthcoming from the assessee, the claim was rejected. The Ld. AO also relied on the outcome of the enquiries made during first assessment proceedings to bolster its stand. The Ld. CIT(A) noted that the assessee failed to discharge the onus that it had carried out agricultural activities and therefore, the additions were confirmed. Aggrieved, the assessee is in further appeal before us.

5.2 We find that the assessee is stated to have earned agricultural income from certain land taken on lease. In support, the assessee had filed copy of lease deed dated 01.09.1990. The factum of lease was confirmed by the lessor Shri TSR Vasudevan in statement given to Ld. AO on 24.10.2000. The Ld. AO rejected the claim on the ground that there was no mention of agriculture income in the original assessment proceedings; part of lease was not confirmed by lessor; there was no record of tenancy in revenue records and as per Adangal extracts, only a portion of the land was shown to have been cultivated.

5.3 It is the submissions of Ld. AR that none of these documents, as relied upon by Ld. AO, were confronted to the assessee. The Ld. AR

also submitted that certificate dated 25.10.2001 from Tehsildar, Villupuram supports the fact that the land was leased out to one of the partners. The Ld. AR also pointed out to various other documents in support of the fact that the income was earned out of agricultural activities.

5.4 Considering the entirety of facts and circumstances, the bench formed an opinion that the assessee was able to justify the earning of agricultural income to a certain extent only. The arguments that the documents relied upon by Ld. AO were not confronted would lose relevance in the light of the fact that the assessee failed to appear before Ld. AO and the assessment was framed on best judgement basis. Therefore, with a view to end any further litigation, we direct Ld. AO to consider 50% of the income as agricultural income and consider the balance income as 'income from other sources'. The grounds, thus raised by the assessee stands partly allowed.

6. Addition of Refund of Advance of Rs.3.70 Lacs.

6.1 The assessee received refund of Rs.3.70 Lacs from one Mrs. Nagammal. In support, the assessee produced confirmation letter given by Shri P.V.Padmanadhan (son of deceased Mrs. Nagammal). It was stated that Mrs. Nagammal entered into an agreement for sale of 25 acres of land and received advance of Rs.11 Lacs from the assessee in March, 1989. Since the transactions could not be completed, the amount was returned back in installments. In further support, letter from one Shri P. Amalanathan, Advocate was also filed. However, in the absence of any other documentary evidences forthcoming from the assessee, Ld. AO added the same as 'Income from other sources'. The Ld. CIT(A)

confirmed the same, Aggrieved the assessee is in further appeal before us.

6.2 From the facts, it emerges that the assessee firm paid advanced to Mrs. Nagammal in earlier years pursuant to a sale agreement. However, the transaction could not be completed and accordingly, the money was received back in installment. This transaction has been confirmed by the son of deceased lender who expired in 1995. The assessee also filed confirmation letters from advocate who was aware about the transaction, Therefore, in the absence of any adverse evidence on record, the explanation was to be accepted. Accordingly, by deleting the same, we allow this ground of appeal

7. The appeal stands partly allowed.

Order pronounced on 08th June, 2022

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखासदस्य / ACCOUNTANT MEMBER

चेन्नई/ Chennai; दिनांक/ Dated : 08-06-2022
EDN

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त (अपील)/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF