

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' A ' Bench, Hyderabad**

**Before Shri R.K. Panda, Accountant Member**  
**AND**

**Shri Laliet Kumar, Judicial Member**

ITA Nos.151 to 153/Hyd/2022		
Assessment Years: 2003-04 to 2005-06		
Sri Sunil Kumar Ahuja Hyderabad PAN:ABLPA2822L (Appellant)	Vs.	ACIT Central Circle 1(1) Hyderabad (Respondent)
Assessee by:	Sri S. Rama Rao, Advocate	
Revenue by:	Smt. N Swapna, DR	
Date of hearing:	05/07/2022	
Date of pronouncement:	08/07/2022	

**ORDER**

**Per R.K. Panda, A.M**

The above three appeals filed by the assessee are directed against the separate orders dated 28.02.2022 of the learned CIT (A)-11, relating to A.Ys. 2003-04 to 2005-06. Since identical grounds have been raised by the assessee in all the above appeals, therefore, these were heard together and are being disposed of by this common order for the sake of convenience.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the learned CIT (A) in confirming the following additions made by the Assessing Officer towards agricultural income:

A.Y 2003-04	Rs.81,485
A.Y 2004-05	Rs.90,861
A.Y 2005-06	Rs.95,377

3. We take ITA No.151/Hyd/2022 for the A.Y 2003-04 as the lead case. Facts of the case, in brief, are that the assessee is an individual and filed his return of income declaring an income of Rs.11,77,046/- and agricultural income of Rs.5,66,280/-. A search and seizure operation u/s 132 of the I.T. Act was conducted at the residential and business premises of the assessee. In response to the notice u/s 153A, the assessee filed revised return of income on 30.11.2009 admitting income originally returned. During the course of assessment proceedings, the Assessing Officer noted that over the years and by the date of search, the agricultural income of the assessee is Rs.23,01,699/-. For the A.Y 2009-10, the agricultural income was shown at Rs.9,28,856/-. Thus, the total agricultural income comes to Rs.24,43,809/-. The Assessing Officer therefore referred to the statement recorded u/s 131 of the I.T. Act on 1.12.2008 wherein the assessee was asked to explain the agricultural income shown by him which is as under:

Period	Amount (Rs.)
1.4.2002 to 31.3.2003	81,485
1.4.2003 to 31.3.2004	90,861
1.4.2004 to 31.3.2005	95,377
1.4.2005 to 31.3.2006	N I L
1.4.2006 to 31.3.2007	1,08,410
1.4.2007 to 31.3.2008	11,38,820
1.4.2008 to 17.9.2008	7,86,746
Total agricultural income	23,01,699

4. The Assessing Officer noted that the assessee in response to the same stated that the entries appearing in respect of agricultural income in the tally data is self-explanatory. However, according to the Assessing Officer, the assessee could not explain with evidence to his satisfaction regarding the earning of agricultural income. In the absence of any such supporting evidence, the Assessing Officer treated the receipts on agricultural

income as “income from other sources” and brought to tax the same.

5. In appeal, the learned CIT (A) after obtaining remand report from the Assessing Officer upheld the action of the Assessing Officer in treating such agricultural income as “income from other sources” by observing as under:

*“The common addition in all the years under consideration is with regard to agricultural income filed by the appellant in the return of income. In all the years, the Assessing Officer has disallowed the agricultural income. The table below brings out the quantum of the full disallowance made by the Assessing Officer of the said agricultural income claimed by the appellant in each of the year under consideration.*

A.Y	Income from other sources (in Rs.)
2003-04	81,485
2004-05	90,861
2005-06	95,377
2006-07	0
2007-08	1,08,410
2008-09	11,38,820
2009-10	9,28,856
Total	24,43,809

*With regard to addition made on account of agriculture income, the AO, in the remand report, stated that the appellant has not submitted any new evidences like vouchers and bills for having carried out the activity of agriculture and on verification of the details therein, there is no expenditure booked for agricultural activities and also that the appellant had not substantiated with proper evidences in support of his claim that he earned agricultural income during the year under consideration. Further, the Assessing Officer also stated that merely holding agricultural land cannot be criteria to treat any income as received from agricultural activity.*

*The remand report was sent to the appellant and in the rejoinder, no evidences were adduced. It is important to note that the process of adjudication has taken almost more than 10 years because of the filing of evidences by the appellant and the subsequent examination and in 11 these years nothing has been substantiated in any which manner. It is important to note that during*

*the course of search, no material/evidences/bills etc., were found reflect any agricultural activity conducted by the appellant and also not a single shred of correspondence/communication/accounts leading to agricultural income were found or claimed by the appellant as such as a matter of evidence. The appellant was even questioned in this regard during the course of search and the appellant stated that it has evidence but failed to furnish anything in this regard but for the entry in the Tally software.*

*The appellant was further questioned and it was asked regarding the yield etc of the claim of vegetables and flowers grown but the appellant inspite of its claim that it has receipts of the sale of the same has failed to produce anything bonafide till date and in the concluding question no.8 the appellant accepted that it has no accounts of agriculture activity but only sale receipts but the same were neither produced as a proper evidence at any point in time. Therefore, the only place the said agriculture income was found mentioned is in the return of income of the appellant and its tally software which are mere entries. The Assessing Officer has also observed that only entries are made of receipts and there are no outgoes at all.*

*The appellant stated that the Assessing officer should have considered the fact that the appellant was holding agricultural lands admeasuring 36.86 acres and thus derived agricultural income.*

*As discussed, it is to be noted that the appellant could not furnish any documentary evidence in the form of bills, receipts or vouchers or otherwise towards agricultural activities and further even during the course of search not a single document pertaining to even a bit of activity of agricultural operations were found and owning up of agricultural land does not translate into agriculture. income. In view of the above, the claim of the appellant with regard to agriculture income cannot be accepted and further inspite of so many opportunities nothing has been furnished, therefore, the addition made by the Assessing Officer of disallowance of agricultural income is upheld as income from other sources in the absence of any documentary evidence and the ground No.4 is dismissed accordingly”.*

6. Aggrieved with such order of the learned CIT (A), the assessee is in appeal before the Tribunal.

7. The learned Counsel for the assessee submitted that the assessee is holding agricultural land of 36.86 acres at Kurnool which is not disputed by the Revenue. The entries in the form of agricultural income were also found during the course of search from the tally data maintained by the assessee and the same is not in dispute. He submitted that the lower authorities have disregarded the agricultural income declared by the assessee on the ground that the assessee failed to produce any evidence such as the bills and vouchers for the agricultural activities being carried out and the yield of vegetables and flowers grown by the assessee in the said land. He submitted that no doubt the assessee failed to produce any such documentary evidence to the satisfaction of the Assessing Officer/CIT (A) but the fact remains that the assessee is holding 38.86 acres of agricultural land and some benefit should be given towards agricultural income.

8. The learned DR, on the other hand, strongly supported the orders of the Assessing Officer and the CIT (A). She submitted that despite number of opportunities granted by the Assessing Officer as well as the CIT (A), the assessee failed to substantiate with any evidence regarding earning of agricultural income and therefore, the order of the learned CIT (A) should be upheld.

9. We have considered the rival arguments made by both the sides, perused the orders of the Assessing Officer and the CIT (A) and the Paper Book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the Assessing Officer in the instant case made addition of Rs.81,485/- treating the same as income from other sources as against agricultural income declared by the assessee. Similar additions have been made for the A.Y 2004-05 amounting to

Rs.90,861/- and for A.Y 2005-06 Rs.95,377/-. We find the learned CIT (A) upheld the action of the Assessing Officer the reasons of which have already been reproduced in the preceding paragraphs. It is the submission of the learned Counsel for the assessee that since the assessee is holding 38.86 acres of agricultural land which is not in dispute, therefore, some benefit of agricultural income should be given to the assessee.

10. We find some force in the above argument of the learned Counsel for the assessee. Holding of 38.86 acres of agricultural land by the assessee is not in dispute since the learned CIT (A) has given a finding on this issue. However, the allegation of the Revenue is that the assessee failed to produce any evidence regarding the expenditure towards carrying out of such agricultural activities by him, the yield of flowers and vegetables and the sale of such products in the market. At the same time, holding of 38.86 acres of agricultural land is not in dispute. Therefore, in our opinion, some agricultural income should be made available to the assessee. On being a pointed query by the Bench at the time of hearing, the learned Counsel for the assessee submitted that the land is situated at Kurnool and rainfed. Therefore, considering the totality of the facts of the case and in the interest of justice, the benefit of Rs.25,000/- for the A.Y 2003-04, Rs.30,000/- for the A.Y 2004-05 and Rs.35,000/- for the A.Y 2005-06, as agricultural income, in our opinion, will meet the ends of justice. We hold and direct accordingly. The order of the learned CIT (A) for the above 3 years are accordingly modified and the Assessing Officer is directed to give the benefit of agricultural income of Rs.25,000/- for A.Y 2003-04, Rs.30,000/- for the A.Y 2004-05 and Rs.35,000/- for the A.Y 2004-06

respectively. Grounds raised by the assessee are thus partly allowed.

11. In the result all the three appeals filed by the assessee are partly allowed.

Order pronounced in the Open Court on 8<sup>th</sup> July, 2022.

<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>	<b>Sd/-</b> <b>(R.K. PANDA)</b> <b>ACCOUNTANT MEMBER</b>
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Hyderabad, dated 8<sup>th</sup> July, 2022.

***Vinodan/sps***

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3	CIT(A) 11 Hyderabad
4	Pr.CIT Central, Hyderabad
5	DR. ITAT Hyderabad
6	Guard File

*By Order*