

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

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

ITA No, 853/PUN/2019 Assessment Year : 2014-15

The Dy. C.I.T. Circle. 1, Nashik

:Appellant

Vs.

Gangadhar K. Jadhav
16 Moraya Apartment,
Opp. Takale Jewellers,
Patil Lane No. 1,
College Road,
NASHIK – ABKPJ 4421 H

Respondent

**C.O. No. 42/PUN/2022
Arising out of ITA No, 853/PUN/2019
Assessment Year : 2014-15**

Gangadhar K. Jadhav
16 Moraya Apartment,
Opp. Takale Jewellers,
Patil Lane No. 1,
College Road,
NASHIK – ABKPJ 4421 H

Cross Objector

Vs.

The Dy. C.I.T. Cir. 1, Nashkk

Appellant in appeal

Department by : Shri Arvind Desai

Assessee by : Shri Sanket Joshi

Date of Hearing : 04-08-2022

Date of Pronouncement : 10-08-2022

ORDER

PER VISWANETHRA RAVI, JUDICIAL MEMBER

Both the appeal by the Revenue and the Cross Objection by the assessee arise against common order dated 28-03-2019 passed by the Commissioner of Income Tax (Appeals)-1, Pune ['CIT(A)'] for assessment year 2014-15.

2. Since the issues raised in both the appeal and the cross objection are similar based on same identical facts, upon hearing and with the consent of both the parties, we proceed to hear both appeal and the cross objection together and pass a consolidated order for the sake of convenience.

3. Firstly, we take up appeal of the Revenue in ITA No. 853/PUN/2019 for A.Y. 2014-15 challenging the action of CIT(A) in deleting the addition of Rs. 72,92,856/- made on account of unexplained credit u/s 68 of the Income-tax Act, 1961 [‘the Act’].

4. The brief facts relating to the issue on hand are that the assessee is an individual engaged in the activity of agriculture and trading in land. The assessee filed a return of income declaring total income of Rs. 1,30,03,276/-. On the scrutiny, the A.O issued notices u/s 143(2) and 142(1) of the Act.

5. In first appeal, the CIT(A) restricted the addition on account of unexplained credit u/s 68 of the Act to an extent of Rs. 8,35,667/- (Rs. 81,28,523/- (-) Rs. 72,92,856/-) and Rs. 2,77,390/- (Rs. 1,92,74,610/- (-) Rs. 1,89,74,610/-) u/s 43CA of the Act. Aggrieved by the said order, the Revenue is before us.

6. Both the parties heard and perused the material available on record. We note that the assessee earned income from sale of grape produced on 14 acres of land at Dhaur, mangoes on 10 acres of land at Thepanwadi and Soyabeen, Corn & Tomato on 13.925 acres of land at Wavi. The CIT(A) observed in his order that the income on grape crop is estimated at about Rs. 2.00 to 2.5 lakhs per acre during the relevant period. Further, he also held that the revenue accepted in scrutiny assessments for A.Y. 2012-13 and 2013-14 at Rs. 38,84,860/- and Rs. 35,01,085/- at the rate of 85% against the claim of the assessee at Rs. 45,70,424/- and Rs. 41,18,923/- respectively.

7. The Id. A.R placed on record a paper book containing 1 to 190 pages. On perusal of the same, we note that from page 49 to 84 are about the details in respect of agricultural income. We note that the assessee has substantial land holding and claimed Rs. 55,71,113/- as agricultural income. The CIT(A) considering the relevant evidence on record and also with submissions of the assessee following earlier years’ assessments restricted the addition to the

extent of Rs. 8,35,667/- i.e. Rs. 81,28,523/- (-) Rs. 72,92,856/-). Therefore, we find no infirmity in the reasons recorded by the CIT(A) from para 5.2 to 5.10 of the impugned order at page 17. Thus, the order of the CIT(A) is justified. Ground No. 1 raised by the Revenue is dismissed.

8. Ground No. 2 raised by the revenue against challenging the action of the CIT(A) in restricting the addition of Rs. 2,77,390/- against Rs. 1,92,52,000/- as made by the A.O. We note that the assessee entered into notarised agreement to sell in 2009-2010 and registered sale deed in the year under consideration i.e. F.Y. 2013-14 relating to A.Y. 2014-15. The case of the A.O is that the value of stamp duty of the subject land is more than the consideration mentioned in the agreement entered in the years 2009 and 2010. Therefore, the A.O made an addition in respect of difference between the value of stamp duty and the sale consideration as per agreement to sale u/s 43CA(1) of the Act on account of deemed income. The CIT(A) held that the sub-section (3) of section 43CA does not provide the agreement fixing the value of consideration for transfer of assets should be registered. Therefore, we find that the view of the A.O in not giving benefit provided u/s 43CA(3) of the Act to the assessee is not justified. Further, the CIT(A) also discussed the relevant Explanatory note of Finance Act, 2013 for introduction of section 43CA of the Act which is reproduced by the CIT(A) in the impugned order at page 24. On perusal of the same, we note that the CIT(A) is correct in holding that the Explanatory Note also does not provide the agreement fixing the value of consideration entered into on earlier date should be registered. Thus, we find no infirmity in the order of the CIT(A) in holding that the assessee is entitled for benefit u/s 43CA of the Act. Thus, the order of the CIT(A) is justified on this issue and the ground No. 2 raised by the revenue is dismissed.

9. Now, we shall take up Cross Objection No. 42/PUN/2022 filed by the assessee.

10 The assessee raised two grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A) is justified in confirming the addition to the extent of Rs. 2,77,390/- u/s 43CA of the Act. We have decided the issue inter-linked to the present grounds No. 1 and 2 in the Revenue's appeal in the afore-mentioned paragraphs confirming the order of the CIT(A) in holding that the assessee is eligible for the benefit u/s 43CA of the Act to the extent relief given by the CIT(A). Therefore, grounds No. 1 and 2 raised by the assessee become academic and therefore, dismissed as infructuous. Thus, grounds No. 1 and 2 raised by the assessee are dismissed as infructuous.

11. In the result, appeal of the Revenue is dismissed in above terms and the cross objection of the assessee is also dismissed as it becomes infructuous.

Order pronounced in the open Court on this 10th August 2022.

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

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

Pune; Dated, this 10th day of August 2022
Ankam

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The Pr. CCIT -14 , Pune.
4. The CIT(A)-9, Pune
5. The D.R. ITAT 'A' Bench Pune.
6. Guard File

BY ORDER,

Sr. Private Secretary
ITAT, Pune.

/// TRUE COPY ///

ITA No. 853/PUN/2019 &
C.O. 42/PUN/2022 – Gangadhar K. Jadhav
A.Y. 2014-15

		Date	
1	Draft dictated on	05-08-2022	Sr.PS
2	Draft placed before author	08-08-2022	Sr.PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on	10-08-2022	Sr.PS/PS
7	Date of uploading of order	10-08-2022	Sr.PS/PS
8	File sent to Bench Clerk	<i>10-08-2022</i>	Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		