

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'SMC' NEW DELHI**

SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No.412/Del/2019
Assessment Year: 2010-11

Narayan Dutt S/o Shri Gopi Ram, VPO Kutani, Distt: Panipat (Hr.) PIN: 132 103	Vs.	ITO, Ward-3, Panipat.
PAN : AFIPG7839N		
(Appellant)		(Respondent)

Appellant by	Shri J.B. Sharma, Adv.
Respondent by	Shri Om Parkash, Sr. DR

Date of hearing	24.08.2022
Date of pronouncement	24.08.2022

ORDER

This is an appeal by the assessee against order dated 01.11.2018 of Learned Commissioner of Income-Tax (Appeals), Karnal pertaining to assessment year 2010-11.

2. The dispute in the present appeal is in relation to an addition of Rs.13,00,500 made by the assessing officer and sustained by the learned Commissioner (Appeals).

3. Briefly the facts are, assessee is a resident individual. Based on information received that during the year under consideration, assessee has deposited an amount of Rs.51,81,000 in his savings bank account. The assessing officer formed a belief that income chargeable to tax for the year under consideration has escaped assessment. Accordingly, he reopened the assessment under Section 147 of the Act. In response to the notice issued under Section 148 of the Act, assessee filed his return of income declaring income from other sources at Rs.19,646. Additionally, he also declared agricultural income at Rs.16,50,500. While, completing the assessment, the assessing officer held that the quantum of agricultural income offered by assessee is not believable as assessee cannot be expected to have earned that amount from agricultural land holding of 3.5 acre. Thus, he estimated the agricultural income earned by assessee at Rs.3,50,000. The balance amount of Rs.13,00,500 out of agricultural income offered by the assessee was treated as income from other sources. The aforesaid decision of the assessing officer was also upheld by learned Commissioner (Appeals).

4. I have considered rival submissions and perused the material available on record.

5. It is patent and obvious, the assessing officer has reopened the assessment under Section 147 of the Act by treating the bank deposit of Rs.51,80,000 made during the year as the escaped income. However, on a reading of the assessment order, it is very much clear that after considering the explanation/submission of the assessee, he has accepted the source of deposits made in the bank account. The only tinkering made by him is in respect of the agricultural income offered by assessee himself. Therefore, it is a foregone fact that the assessing officer without making any addition of the item of income, for which the assessment was reopened under Section 147 of the Act, has made addition of a different item of income. In fact, the assessing officer has merely changed the nature and head income from agricultural income to income from other sources. Thus, in my view, it is against the settled principles of law. In this context, reliance can be placed on the following decisions:

1. CIT vs. Jet Airways (I) Ltd., 331 ITR 236 (Bom);
2. Ranbaxy Laboratories Ltd. Vs. CIT 336 ITR 136 (Del.).

6. Thus, following the ratio laid down in the aforesaid judicial precedents, I delete the addition made by the assessing officer.

7. In the result, the appeal is allowed as indicated above.

Order pronounced in the open court on 24th August, 2022.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 24th August, 2022.

Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR: ITAT

Asst. Registrar, ITAT, New Delhi

Sl. No.	Particulars	Date
1.	Date of dictation (Order drafted through Dragon software):	24.08.2022
2.	Date on which the draft of order is placed before the Dictating Member:	24.08.2022
3.	Date on which the draft of order is placed before the other Member:	
4.	Date on which the approved draft of order comes to the Sr. PS/PS:	24 .08.2022
5.	Date of which the fair order is placed before the Dictating Member for pronouncement:	24.08.2022
6.	Date on which the final order received after having been singed/pronounced by the Members:	31.08.2022
7.	Date on which the final order is uploaded on the website of ITAT:	31.08.2022
8.	Date on which the file goes to the Bench Clerk	31.08.2022
9.	Date on which files goes to the Head Clerk:	
10.	Date on which file goes to the Assistant Registrar for signature on the order:	
11.	Date of dispatch of order:	