

**IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR.**

**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No.25/Asr/2018
Assessment Year: 2012-13**

Shamshada Talib IE-Baghat, Barzulla, Srinagar. [PAN: AKDPS2518N] (Appellant)	Vs.	ITO, Ward-3(3), Srinagar. (Respondent)
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Appellant by	None.
Respondent by	Ms. Amanpreet Kaur, Sr.DR

Date of Hearing	29.09.2022
Date of Pronouncement	12.10.2022

ORDER

Per:Anikesh Banerjee, JM:

The instant appeal of the assessee is directed against the order of the Id. Commissioner of Income Tax(Appeals)-2,Amaritsar, [in brevity the CIT(A)] bearing appeal No.409/2014-15, date of order 26.09.2017, the order passed u/s 250(6) of the Income Tax Act 1961, [in brevity the Act] for A.Y. 2012-13.The

impugned order was emanated from the order of the Id. Income Tax Officer, Ward 3(3), Srinagar, (in brevity the AO) order passed u/s 144 of the Act date of order 07.02.2015. The assessee has raised the following grounds:

“1. The Ld. CIT (A) has erred in law and facts by confirming action of the Ld. Assessing Officer 'by applying provisions of section 145 (3), of Income Tax Act, 1961.

2. The Ld. CIT (A) has erred in law and facts by confirming addition of Rs. 6,28,118.40/- {12% of 52,34,320/- (Gross Receipts)} made by the Ld. Assessing Officer by invoking provisions of section 145 (3) of Income Tax Act; 1961. The addition is bad in law and liable to be deleted.

3. The Ld. CIT (A) has erred in law and facts by confirming action of the Ld. Assessing Officer by passing order u/s 144 read with section 147 of Income Tax Act 1961, which is bad in law and against the facts and circumstances of the case. The order therefore deserves to be quashed.

4. The Ld. CIT (A) has erred in law and facts by confirming addition of Rs.5,80,000/- made by the Ld. Assessing Officer on account of Agriculture Income. The addition is bad in law and liable to be deleted.

5. *The Appellant reserves the right to amend, alter, add, any grounds of appeal.”*

2. The brief fact of the case is that the assessment was completed u/s 144 of the Act. Due to floods in Srinagar, the assessee was unable to submit books of account and proper documents before the ld. AO. The addition was made related to enhancement of net profit on turnover amount to Rs.52,34,320/-. The assessee was continuing trading business in the name of M/s Kashmir Arts and Handicrafts during the financial year and declared the net profit @ 2.04% on Turn over. The ld. AO enhance the net profit ratio @ 12% and added back the net profit amount to Rs.6,28,118/-. The ld. AO also disallowed the claim of deduction u/s 80C amount to Rs.1 lac. The assessee claimed agricultural income Rs.5,80,000/- which was also rejected due to non-submission of the documents and supporting evidence. Being aggrieved assessee filed an appeal before the ld. CIT(A). The assessee had taken all the grounds except the enhancement of G.P. before appellate authority. The ld. CIT(A) had upheld the order of the ld. AO.

3. Aggrieved assessee filed an appeal before us.

4. During hearing none was present on behalf of the assessee. The matter is taken up for hearing with the consent of Id. Sr. DR.

5. The assessee took the plea before the Id. AO that he was unable to produce the documents due to the flood in the Kashmir. During the appellate proceeding, the assessee claimed that assessee has agricultural loss in Srinagar and during year assessee sold the crops total of Rs.5,80,000/-. But before all the revenue authorities, the assessee unable to submit any documents, related to enhancement of net profit. The assessee had taken the same ground before the ITAT but had not taken before the appellate authority.

5.1 Further, the assessee had only claimed about his deduction u/s 80C but was unable to produce documentary evidence against the claim of deduction.

6. The Id. Sr. DR vehemently argued and relied on the order of both the revenue authorities.

7. We consider the submission of the Id. Sr. DR and the orders of both the revenue authorities. During assessment proceeding the assessee filed the details of agricultural income duly authorised by the competent authority. But he was unable to produce any certificate as required by the Id. AO. Related to the submission of documents the assessee had suffered flood in the Kashmir. Another chance should

be allowed to the assessee for submitting the evidence and to substantiate the claim before the revenue authorities. We set aside the matter before the Id. CIT(A) for further adjudication. Needless to say, the assessee should get a reasonable opportunity before the Id. CIT(A) and shall be allowed to submit the documents before the authority.

8. In the result, the appeal of the assessee bearing **ITA No.25/Asr/2018** is allowed for statistical purpose.

Order pronounced in the open court on 12.10.2022

Sd/-

(Dr. M. L. Meena)
Accountant Member

Sd/-

(ANIKESH BANERJEE)
Judicial Member

AKV

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy
By Order