

**IN THE INCOME TAX APPELLATE TRIBUNAL 'A' BENCH, PUNE**  
**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER**  
**AND**  
**SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

**ITA No. 184/PUN/2021 : A.Y. 2016-17**

Kalyanrao Vasant Rao Kale (HUF)  
Vasant Vihar, Plot No. 84,  
Vasant Nagar, Yashwant Housing Society  
Pandharpur Solapur  
PAN: AAJHK 6482 M

Appellant

Vs.

The Pr. C.I.T.- 4, Pune.

Respondent

Appellant by : None  
Respondent by : Shri Ganesh Bare

Date of Hearing : 24-11-2022  
Date of Pronouncement : 29-11-2022

**ORDER**

**PER PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

This appeal preferred by the assessee emanates from order of the Id. Pr. Commissioner of Income Tax-4, Pune dated 31-03-2021 for A.Y. 2016-17 as per the grounds of appeal on record.

2. The solitary grievance of the assessee is the assumption of revisionary jurisdiction by the Id. Pr. CIT and passing an order u/s 263 of the Income-tax Act, 1961 (hereinafter referred to as "the Act").

3. At the time of hearing, none appeared for the assessee. The submissions of the Id. D.R as well as materials/documents on record have been considered and the case is adjudicated on merits.

4. The brief facts in this case are that the return of income was e-filed by the assessee on 28-03-2017 declaring total income at Rs. 1,13,930/- and agriculture income at Rs. 29,64,523/-. The case was selected for scrutiny under CASS to examine large agricultural income in comparison of the total income. The assessment order u/s 143(3) of the Act was passed on 20-12-

2018 accepting the total income at Rs. 1,13,930/- and agricultural income at Rs. 29,64,523/-. It was observed by the Id. Pr. CIT in his order that for the relevant assessment year 2016-17, the assessee had shown agricultural income at Rs. 48,46,836/- claimed to have been received from sale of raisins, horticulture receipts and sugar-cane receipts. From the said gross agricultural income, the assessee had claimed agricultural expenses of Rs. 18,82,313/- which is @ 38.83% of the gross agricultural income and net agricultural income shown in the computation of income was at Rs. 29,64,523/-. Further, it was observed that the income from sale of raisins of Rs. 24,12,312/- from sale of 12527 kg of raisins was shown as agricultural income but the same was required to be apportioned as agricultural income and business income as per section 2(1A) of the Act and Rule 7 of the Income-tax Rules, 1962. Thereafter, the Id. Pr. CIT has made an apportionment of income between the agricultural income and business income and arrived at net agricultural income assessable at Rs. 20,36,913/- as evident in his order. Considering the above facts, there was an underassessment of Rs. 9,27,610/- which was required to be taxed in the hands of the assessee under the head "income from business". In view of the aforesaid, the Id. Pr. CIT observed that assessment completed u/s 143(3) of the Act on 20-12-2018 by the A.O was erroneous in so far as it was prejudicial to the interest of the Revenue to the above extent. Hence, the Id. Pr. CIT proposed to revise the order passed u/s 143(3) of the Act. Therefore, a DIN show cause notice was issued to the assessee vide No. ITBA/REV/REV11/2020-21/1030974522(1) dt. 25-02-2021 giving an opportunity to explain as to why the order passed by the A.O. should not be revised by invoking provisions of sec. 263 of the Act.

5. Accordingly, notice was issued to the assessee and an opportunity to submit written submissions in the case on or before 05-03-2021 was given to the assessee. In response to the said notice, the assessee filed written submissions dated 23-03-2021 through ITBA Revision portal on 24-03-2021.

6. The Id. Pr. CIT placed reliance on following decisions and supported his findings that the A.O failed to make proper enquiries and verification with regards to the facts of the case making the assessment order erroneous and so as to be prejudicial to the interest of revenue.

*Gee Vee Enterprises Vs. Addl. CIT 1975 CTR (Del) 61 : (1975) 99 ITR 375 (Del), CIT Vs. South India shipping Corpn. Ltd. 1998) 147 CTR (Mad) 433 : (1998) 233 ITR 546 (Mad) CIT Vs. M.M. Khambhatwala (1992) 198 ITR 144 (Guj) and CIT Vs. Bhagwan Das (2004) 191 CTR 531 : (2005) 272 ITR 367 (All).*

7. We have perused the assessment order as well as the order of the Id. Pr. CIT. We find that in the assessment order, the Id. A.O has not brought out specific facts after due verification regarding the extent of agricultural income and the agricultural expenses incurred by the assessee. The Id. A.O has simply accepted all the submissions and the documents submitted by the assessee and has not given any categorical findings of facts. It is absolutely evident that there has been no proper enquiry for ascertaining the extent of agricultural income. Even the Inspector's report which is stated in the assessment order does not bring out the details as to what exactly was the enquiry conducted. On the other hand, the Id. Pr. CIT has analyzed the facts and circumstances and has worked out the agricultural income assessable considering the facts of the case. In such scenario, it is the duty of the Id. A.O to bring out the correct facts after necessary verification and he should come out with a speaking order. The Id. Pr. CIT has therefore, directed the Id. A.O to re-visit the assessment while conducting the detailed enquiry and then pass an order as per law complying with principles of natural justice. We therefore, do

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not find any infirmity with the findings of the Id. Pr. CIT and uphold his order passed u/s 263 of the Act.

8. In the result, appeal of the assessee is dismissed.

Order pronounced in the open Court on this 29<sup>th</sup> day of November, 2022

Sd/-

sd/-

**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

**(PARTHA SARATHI CHAUDHURY)**  
**JUDICIAL MEMBER**

Pune; Dated, the 29<sup>th</sup> November 2022  
Ankam

**Copy of the Order forwarded to :**

1. The Appellant.
2. The Respondent.
3. The Pr. CIT 4 Pune
4. D.R. ITAT 'A' Bench
5. Guard File

BY ORDER,

Sr. Private Secretary  
ITAT, Pune.

**/// TRUE COPY ///**

1	Draft dictated on	24-11-2022	Sr.PS/PS
2	Draft placed before author	25-11-2022	Sr.PS/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	29-11-2022	Sr.PS/PS
7	Date of uploading of order	29-11-2022	Sr.PS/PS
8	File sent to Bench Clerk	29-11-2022	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		