

**IN THE INCOME TAX APPELLATE TRIBUNAL  
BENGALURU (SMC) "B" BENCH, BENGALURU**

**Before Shri Chandra Poojari, Accountant Member**

<b>ITA No. 1106/Bang/2022</b> (Assessment Year: 2017-18)		
Kattehosahalli Subbegowda Gowramma 7, 8th Main. CITB Choultry Road Hebbal 1st Stage, Mysuru 570017 PAN – ALTPG5012A  (Appellant)	vs	The Income Tax Officer- 1(2) Mysore  (Respondent)
Assessee by:	Shri S.V. Ravishankar, Advocat3	
Revenue by:	Shri Ganesh R. Ghale, Standing Counsel	
Date of hearing:	16.01.2023	
Date of pronouncement:	16.01.2023	

**ORDER**

**Per: Chandra Poojari, A.M.**

This appeal by the assessee is directed against the order of the CIT(A), National Faceless Appeal Centre (NFAC), Delhi dated 12.10.2022 for Assessment Year 2017-18.

2. The assessee has raised the following grounds of appeal: -

- “1. *The order passed by the Hon'ble Commissioner of Income Tax (Appeals), NFAC, passed under section 250 of the Income Tax Act, 1961 ("the Act") in so far as it is against the Appellant is opposed to law, weight of evidence, probabilities, facts and circumstances of the Appellant's case.*
2. *The appellant denies herself to be assessed at Rs.6,80,100/- as against the returned income of Rs.2,91,740/- after claiming exemption of agricultural income Rs.6,28,360/-on the facts and circumstances of the case.*

3. *The authorities below were not justified in disallowing agricultural income to the extent of Rs.3,88,360/- under the facts and circumstances of the case.*
4. *The authorities below were not justified in making ad-hoc disallowance of agricultural income on the facts and circumstance of the case.*
5. *Without prejudice, the appellant submits that the data relied upon by the learned assessing officer in arriving at the agricultural income of Rs.2,40,000/- has not been put to notice and thus is in violation of the principles of natural justice, on the facts of the case.*
6. *The appellant denies the liability to pay interest under section 234A, 234B and 234C of the Act in view of the fact that there is no liability to additional tax as determined by the learned assessing officer without prejudice the rate, period and on what quantum the interest has been levied is not discernible from the order.*
7. *The appellant craves to add, alter, amend, substitute, change and delete any or the grounds of appeal.*
8. *For the above and other grounds that may be urged at the time of hearing of the appeal, the Appellant prays that the appeal may be allowed and justice rendered”*

The assessee also filed the additional Grounds: -

9. *The authorities below were not justified in invoking the provision of section 69A of the Act as the source of income remains explained and the provisions of section 69A find no applicability where books of accounts are not maintained on the facts and circumstances of the case.*
10. *The authorities below are not justified in disallowing the claim of agricultural income Rs.3,88,360/- on the premise that sufficient proof and documentary support has not been provided, without appreciating the fact that the said prerequisites do not apply to the appellant, on the facts and circumstances of the case.*
11. *The authorities below were not justified in treating the agricultural income as income from other sources, by merely reducing the claim of exempt income without there being any income under the head 'income from other sources', on the facts and circumstances of the case.*

*12. The authorities below have failed to appreciate that the appellant has been consistently declaring agricultural income every year and disallowance of exempt income for the relevant assessment year without any change in facts is not warranted on the facts and circumstances of the case.”*

3. The assessee filed petition for admission of additional grounds stating that these grounds do not involve any investigation of facts otherwise on the record of the Department and are also pure question of law. He placed reliance on the judgment of the Hon'ble Supreme Court in the case of NTPC Ltd. vs. CIT (1998) 229 ITR 382 (SC) and also the judgement of Hon'ble Karnataka High Court in the case of Gundathur Thimmappa & Sons vs. CIT 70 ITR 70 (Kar.) and prayed that these additional grounds may be admitted in the interest of justice and adjudicated.

4. The learned D.R. strongly opposed admission of additional grounds and also submitted that there is no reasonable cause for not raising these grounds before the lower authorities on earlier occasions.

5. I have heard the rival contentions and perused the material on record. In my opinion these grounds are emanated from the orders of the lower authorities and there is no need of investigation of any fresh fact otherwise on record of the Department. Being so, I admit the additional grounds in the interest of justice for the purpose of adjudication.

6. The crux of main grounds are that treating of an amount of Rs.3,88,360/- as income from other sources out of an income of Rs.6,28,360/- declared by the assessee as agricultural income. The assessee disclosed an amount of Rs.6,28,360/- as agricultural income in the return of income, derived from agricultural land of 6.31 acres. According to the AO the assessee cannot earn such an amount from the said agricultural land and he considered only an amount of Rs.2,40,000/- as agricultural income and the balance amount of Rs.388,360/- was considered as income from other sources. On

appeal the same has been confirmed by the learned CIT(A). Against this the assessee is in appeal before the Tribunal.

7. The learned A.R. submitted before me that the assessee is owning 6.31 acres of agricultural land and the assessee is growing coconut trees in the said land and he has been declaring agricultural income from assessment year to assessment year as follows:

<b>Assessment Year</b>	<b>Agricultural Income</b>
2015-16	5,00,781
2016-17	6,39,480
2017-18	6,28,360
2018-19	6,56,752
2019-20	6,62,350

He submitted that the above declared agricultural income has been accepted by the AO in earlier assessment years 2015-16, 2016-17 and other subsequent assessment years 2018-19 and 2018-20. In the assessment year under consideration the AO considered only an amount of Rs.2,40,000/- as agricultural income and the balance amount of Rs.3,88,360/- was considered as income from other sources, for which there is no basis and the same to be deleted. He drew my attention to the RTC copies of land and also the return of income for the above assessment years, which are kept on record.

8. On the other hand, the learned D.R. submitted that the agricultural income declared by the assessee in the earlier years or in subsequent years cannot be reason to delete the addition made in the assessment year under consideration. He also submitted that the assessee has not produced any evidence regarding proof of cultivation, harvesting of crops, nature and type of crops grown, land records and report of agricultural officer regarding crop grown, proof of sale of agricultural products in the assessment year under consideration and details of various expenses incurred by the assessee for this

assessment year. Hence, the AO rightly considered an amount of Rs.388,360/- as income from other sources, the same to be confirmed.

9. I heard the rival contentions and perused the material on record. In the assessment year under consideration the assessee has declared agricultural income in his return of income at Rs.628,360/-. However, the AO treated only an amount of Rs.2,40,000/- as an agricultural income and the balance amount of Rs.388,360/- was considered as income from other sources. The assessee is admittedly owning 6.31 acres of agricultural land and the assessee has been growing coconut trees and declaring income from assessment year to assessment year and the assessee's declaration of agricultural income in earlier assessment years 2015-16 and 2016-17 and in subsequent years 2018-19 and 2019-20 has been accepted and there was no addition on this count as seen from the earlier returns of income produced by the assessee before us. The lower authorities have not doubted the owning of agricultural land and growing of coconut trees therein. The AO has not brought any material to suggest that the assessee has earned any income other than the income declared by the assessee in his return of income from any other source. The only reason which provoked the AO to disallow agricultural income declared by the assessee was the deposit of Rs.20,14,500/- during demonetisation period. The assessee explained before the AO that the assessee has withdrawn an amount of Rs.20,00,000/- on 03.10.2016, Rs.2,50,000/- on 04.10.2016, Rs. 5,00,000/- on 05.11.2016 and produced the bank account statement pertaining to Karnataka Bank Account No. 51125001022495001 for the period 03.08.2016 to 31.03.2016 and the Ld. AO has accepted the proposition that the assessee has withdrawn Rs. 20.20 lakhs before demonetisation and the same has been redeposited into the bank. In spite of recording these findings, the Ld. AO doubted the agricultural income declared by the assessee at Rs.6,28,360/-, though the assessee has been declaring more or less same amount of agricultural income in earlier years as well in subsequent years. In

my opinion, since there is no material brought on record by the AO to suggest that the amount deposited into assessee's bank account has been sourced by any inflated income I am not in a position to uphold the findings of lower authorities in treating the agricultural income declared by the assessee at Rs.3,88,360/- as income from other sources as there is no major changes in the agricultural income declared by the assessee in these this assessment year as compared to assessment years 2015-16 and 2016-17 or in subsequent years 2018-19 and 2019-20 as tabulated in earlier part of this order. Accordingly I find no justification to sustain the addition and the addition made by the AO and sustained by the learned CIT(A) is deleted. Since, I have decided the issue in the main grounds of appeal on merits, the additional grounds raised by the assessee has become only academic. The same are dismissed.

10. In the result, the appeal filed by the assessee is allowed.

Dictated and pronounced in the open Court on 16<sup>th</sup> January, 2023.

Sd/-  
**(Chandra Poojari)**  
**Accountant Member**

Bengaluru, Dated: 16<sup>th</sup> January, 2023

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -NFAC*
4. *The CIT -*
5. *The DR, ITAT, Bengaluru*
6. *Guard File*

*By Order*

//True Copy//

*Assistant Registrar*  
*ITAT, Bengaluru*

n.p.