

आयकर अपीलिय अधिकरण, 'बी/एस एम सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B/SMC' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND

आयकर अपील सं./ITA No.1111/Chny/2022
निर्धारण वर्ष /Assessment Year: 2016-17

Meena Ramanathan,
10, 3rd Street, Sundar Nagar,
Tiruchirapalli – 620 021.
[PAN: AAHPR-7264-E]

The Asst. Commissioner of
Vs. Income Tax,
Circle-3(1),
Trichy.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri N. Arjunraj, C.A for
Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri S. Chandrasekaran, JCIT

सुनवाई की तारीख/Date of Hearing

: 08.03.2023

घोषणा की तारीख /Date of Pronouncement

: 08.03.2023

आदेश / ORDER

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, [CIT(A)] in Appeal No.CIT(A), Tiruchirapalli-1/10113/2018-19 dated 25-10-2022. The Assessment was framed by Asst. Commissioner of Income Tax, Circle-3(1), Trichy for the relevant A.Y. 2016-17 vide order dated 10.12.2018 u/s. 143(3) of the Income Tax Act, 1961 (hereinafter 'the Act').

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2. At the outset it is noticed that this appeal is time barred by 02 days and the assessee has filed condonation application stating the following reasons:

“I state that the delay in sending the signed appeal papers had resulted in the marginal delay in filing the appeal. The signed appeal papers were handed over to the office of the counsel on record on 24.12.2022 and the said day being a Saturday, the appeal was filed on next working day being 26.12.2022 resulting in delay of 2 days in filing the appeal.”

3. In my view the cause is reasonable and hence, I condone the delay and admit the appeal for adjudication.

4. The first two interconnected issues in this appeal of assessee is as regards to the addition of unexplained sundry creditors of Rs. 18,54,734/- added u/s. 68 of the Act and addition of unexplained money in term of Sec.69A of the Act amounting to Rs. 16,00,000/- confirmed by CIT(A), the additions made by A.O.

5. Brief facts of the case are that the A.O added sundry creditors of Rs. 18,54,734/- as the assessee could not provide supportive evidences of ledger extract and receipt of loans. According to A.O, the assessee has not discharged his onus of proving the genuineness of the transaction and creditworthiness of these parties. Similarly, the deposit received by assessee from the company M/s. Sri Narayana Industries of Rs. 16,00,000/-, the assessee produced only ledger

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extract and confirmation note, but could not provide the mode of transaction, bank transaction evidence and interest payment details and hence, the A.O treated the deposit received from the company as unexplained u/s. 69A of the Act and added to the returned income of the assessee amounting to Rs. 16,00,000/-. Aggrieved, the assessee preferred an appeal before CIT(A). The CIT(A) also confirmed the addition as the assessee could not file any evidence. The relevant finding in Para 6.1 reads as under:

“6.1 Further, Rs. 18,54,734/- was added on account of sundry creditor for the reasons that the assessee has just provided the ledger extract and receipt of loan was not supported by the evidence such as bank transaction. Another sum of Rs.16,00,000/- was added for the reasons that the assessee has not provided the details of companies Shri Narayana Industries such mode of transaction, bank transaction evidence reasons for placing deposit without interest. During the appellant proceedings the assessee has only made a claim that both sundry creditors and deposits represent opening balances and no transaction took placed during the year. On perusal of the assessment order, it is found that the AO has given a categorical findings on both the account that bank transaction evidence was not filed. In such a situation the appellant should have demonstrated with evidence and bank details to prove the transaction and the period of transaction. The assessee has not filed any evidence and even justification for not paying interest on deposits and when the accounts were squared off subsequently. In view of the above, I do not have any material to interfere with the findings of the AO and addition of Rs.18,54,734/- on account of sundry creditor and Rs. 16,00,000/- on account of deposits are hereby confirmed and the related grounds of appeal are dismissed.”

6. Before me, the Ld. counsel for the assessee only requested that he has collected all the details in regard to sundry creditors as well as deposit received from M/s. Sri Narayana Industries, this can be produced even now and he filed copies of ledger confirmation of Shri

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N. Ramanaathan, ledger confirmation of M/s. Sri Narayana Industries and income tax returns of the assessee for A.Y 2017-18 to 2019-20. The Ld. counsel requested that he is ready to file the same before the A.O and will explain the cash credits as well as the unexplained cash deposit added by A.O. When this fact was confronted to Ld. Sr. D.R, he opposed for setting aside the matter to the file of the A.O.

7. I have considered the facts in entirety and noted that the assessee could not produce these details before the A.O as the assessee could not collect details on time. Hence, I am of the view that for substantial justice, these issues can go back to the file of the A.O, who will decide the issue afresh after obtaining the evidences from the assessee. Needless to say, the assessee will file all the details before the A.O at the first instance. In term of the above, these two interconnected issues are set aside and allowed for statistical purposes.

8. The third issue in this appeal of the assessee is as regards to order of CIT(A) in confirming the action of the A.O in making addition of unexplained agricultural income and adding the same to the returned income of the assessee amounting to Rs. 13,74,749/-.

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9. I have heard the rival contentions and gone through the facts and circumstances of the case. The assessee owns agriculture land to the extent of 18.3 acres and out of which he has planted coconut trees in and around 15 acres. The assessee has also planted Mango trees, Tamarind trees, Amla and Alovera trees in remaining 3 acres of land as intercrop. The assessee has declared total agricultural income at Rs. 17,65,377/- and claimed expenditure of Rs. 3,90,628/-. According to A.O, the assessee has not submitted any bills vouchers, breakup of expenses and also could not furnish any proof of sale of agriculture produce. Hence, he added the agricultural income as income from other sources amounting to Rs. 13,74,749/-. The CIT(A) also confirmed the action of the A.O in absence of any evidence by disallowing in Para 6 as under:

“6. I have considered the facts mentioned in the assessee’s submission and the contents of the assessment order. The assessee has not submitted any details and evidence of sale of crops like the parties to whom agricultural produce was sold and any proof or vouchers for expenses incurred for agricultural activities. Assessee had produced only certificates from the VAO regarding the agricultural activities. However, the AO stated in his assessment order that the same covers only a part period and no certificate from Tehsildar was submitted and hence the claim of generating agricultural income was not acceptable. The appellant failed to file any verifiable evidence of generating agricultural income to the tune of Rs. 13.74 Lakhs during the appellate proceedings related to sale of crops or related expenses. In view of above, the grounds related to agricultural income are hereby dismissed and addition of Rs. 13,74,750/- as income from other source is confirmed.

Aggrieved, the assessee is in appeal before the Tribunal.

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10. I have heard the facts and noted that the assessee has produced VAO certificate in regard to agricultural activities. The assessee owns agriculture land to the extent of 18.3 acres and out of which he has planted coconut trees in and around 15 acres. The assessee has also planted Mango trees, Tamarind trees, Amla and Alovera trees in remaining 3 acres of land as intercrop. In my view, there is agriculture income but the assessee is unable to prove with evidence that how much. Accordingly, there is no other alternative except to estimate agriculture income and hence, going by the size and land holding and the crops planted, I estimate the agricultural income at Rs. 10,00,000/- and balance of Rs. 3,74,749/- is confirmed as addition. In term of the above, the appeal of the assessee is partly allowed.

11. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Open Court on 08th of March, 2023.

Sd/-
(महावीर सिंह)
(Mahavir Singh)
उपाध्यक्ष / Vice President

चेन्नई/Chennai, दिनांक/Dated: 08-03-2023
EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF