

**IN THE INCOME TAX APPELLATE TRIBUNAL
BENGALURU “B” BENCH, BENGALURU**

**Before Shri George George K., Judicial Member
and
Shri Laxmi Prasad Sahu, Accountant Member**

ITA No. 1047/Bang/2022 (Assessment Year: 2014-15)		
Shri H.J. Siwani No. 14, H.M. Geneva House Cunningham Road Bengaluru 560052 PAN – AHWPS5878F	vs	DCIT, Central Circle - 1(4) C.R. Building, Queens Road Bengaluru 560001
(Appellant)		(Respondent)

Assessee by:	Shri S.V. Ravishankar, Advocate
Revenue by:	Shri Gudimella VP Pavan Kumar, JCIT

Date of hearing:	13.03.2023
Date of pronouncement:	13.03.2023

ORDER

Per: George George K., J.M.

This appeal at the instance of the assessee is directed against the order of the Commissioner of Income Tax (Appeals) [CIT(A)] - 11, Bangalore dated 12.10.2022. The relevant assessment year is 2014-15.

2. The solitary issue that was argued was whether the CIT(A) is justified in confirming the addition of Rs.40,28,000/- as income from ‘other sources’.

3. The brief facts of the case are as follows: -

The assessee is an individual. For AY 2014-15 return of income was filed on 31.03.2016 disclosing total income of Rs.32,67,940/-. The assessment was selected for scrutiny and notice under Section 143(2) of the Income Tax Act, 1961 (the Act) was issued on 29.10.2016. During the course of scrutiny

assessment it was noticed by the Assessing Officer (AO) that the assessee in the return of income had disclosed a sum of Rs.60,00,000/- as agricultural income. The AO asked the assessee to substantiate his claim of having earned agricultural income. In response to the same the assessee relied on a lease agreement dated 18.11.1995 with Shri Ravi Kumar. The assessee also produced confirmation from Shri Ravi Kumar stating that he had received sale proceeds on agricultural produce. The AO, however, treated the explanation of the assessee as not creditworthy for the reason that no such agreement was produced by the assessee in the earlier years and his agricultural income was not being fully accepted by the Assessing Officers in those years. The AO noted, the claim of the assessee is not substantiated by any independent evidence of having earned agricultural income. Hence, following the precedence in assessee's own case for earlier years, the AO estimated the agricultural income of the assessee, by adopting the rate of Rs.1,00,000/- per acre and the balance amount of Rs.40,28,000/- (60,00,000 – 19,72,000) was treated as income under the head 'other sources'.

4. Aggrieved, assessee filed appeal before the first appellate authority. The CIT(A) confirmed the view taken by the AO. The CIT(A) held that the agreement produced by the assessee itself is not creditworthy. It was held by the CIT(A) that the record of Rights and Pahani Form (RTC), shows the name of cultivator as the assessee and the name of Shri Ravi Kumar (lessee) did not figure anywhere. Further the RTC produced for the relevant period did not pertain to the entire land ownership but only with regard to one acre of land. The CIT(A) was of the view that there is nothing on record to suggest that the assessee has earned such huge agricultural income of Rs.60,00,000/- out of 19.72 acres.

5. Aggrieved by the order of the CIT(A) the assessee has filed the present appeal before the Tribunal. The assessee has filed paper book comprising of

66 pages enclosing therein the return of income filed, copies of the notices issued by the AO, replies submitted by the assessee before the AO and the CIT(A), written submission filed before the CIT(A), etc. The learned A.R. submitted that estimation of income at Rs. 1,00,000/- per acre is on the lower side and the same may be increased.

6. The learned D.R., on the other hand, submitted that the assessee has not produced any evidence to show that he had earned agricultural income of Rs.60,00,000/- from 19.72 acres. It was further stated by the learned D.R. that the assessee is in the business of development of housing project and in all likelihood disclosed unaccounted income as agricultural income. Therefore it was submitted that the assessee's claim that he has earned Rs.60,00,000/- from 19.72 acres cannot be believed.

7. We have heard the rival contentions and perused the material on record. The admitted fact is that the assessee has claimed agricultural income of Rs.60,00,000/- from 19.72 acres. In the past years also the claim of the assessee of having earned agricultural income has been disbelieved by the AO and a portion of the agricultural income was added to the total income of the assessee as income from 'other sources'. For this year the assessee has produced a lease agreement between the assessee and one Shri Ravi Kumar, The lease agreement is dated 18.11.1995. Though the lease agreement is dated 18.11.1995 in the past years assessee has not brought the same to the notice of the AO. The assessee has not produced any proof to show what was the agricultural activities carried on by the lessee to have provided the assessee a sum of Rs.60,00,000/-. There is no evidence submitted by the assessee that he was in receipt of huge agricultural income of Rs.60,00,000/- from 19.72 acres (assessee share 50% of 39.44 acres). In view of the aforesaid reasoning, we are of the view that the AO was justified in limiting the agricultural income to

Rs. 1,00,000/- per acre. Therefore the order of the CIT(A) confirming the AO's order is upheld as valid and in accordance with law.

8. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open Court on 13th of March, 2023.

Sd/-
(Laxmi Prasad Sahu)
Accountant Member

Sd/-
(George George K.)
Judicial Member

Bengaluru, Dated: 13th of March, 2023

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT(A) -11, Bangalore*
4. *The Pr. CIT - Central, Bangalore*
5. *The DR, ITAT, Bengaluru*
6. *Guard File*

By Order

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Assistant Registrar
ITAT, Bengaluru

n.p.