

IN THE INCOME TAX APPELLATE TRIBUNAL
RAJKOT BENCH, RAJKOT

[CONDUCTED THROUGH VIRTUAL COURT]

**Before: Shri Waseem Ahmed, Accountant Member
And Shri Siddhartha Nautiyal, Judicial Member**

**ITA No. 446/Rjt/2017
Assessment Year 2013-14**

Savitaben Arjanbhai Sindhav, "Gatrad Krupa", Street No. 19, Arya Nagar, Sant Kabir Road, Rajkot PAN: EPRPS1482E (Appellant)	Vs	The ITO, Ward-2(1)(5), Rajkot (Respondent)
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Assessee by: None
Revenue by: Shri B.D. Gupta, Sr. D.R.

Date of hearing : 06-03-2023
Date of pronouncement : 14-03-2023

आदेश/ORDER

PER : SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER:-

This assessee's appeal for A.Y. 2013-14, arises from order of the CIT(A)-2, Rajkot dated 13-09-2017, in proceedings under section 250 of the Income Tax Act, 1961; in short "the Act".

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

“1.0 The grounds of appeal mentioned hereunder are without prejudice to one another:

2.0 The learned Commissioner of Income Tax (Appeals)-2, Rajkot [hereinafter referred to as the "CIT(A)"] erred on facts as also in law in confirming addition of Rs. 45,10,700/- made u/s. 69 of the Act being investment made in agricultural land at Kuvadava. The addition may kindly be deleted.

3.0 Your Honor's appellant craves leave to add, amend, alter, or withdraw any or more grounds of appeal on or before the hearing of appeal.”

3. On merits, the facts of the case are that during the year under consideration, the assessee has shown income from job work of silver and agricultural income. During the year, the assessee had purchased a piece of agricultural land at Kuvada for an amount of ₹ 1,16,86,000/- along with Shri Vashrambhai and Smt. Bhartiben. The assessee's share comes to ₹ 45,10,700/- (including stamp duty and registration). During the course of assessment, the AO asked the assessee to explain the source of investment and in response, the assessee submitted that the source of investment of the properties was out of sale of agricultural produce worth ₹ 22.93 lakhs to M/s Vaibhav Cotton, from sale of agricultural produce to unregistered farmers amounting to ₹ 3 lakhs and unsecured loan of ₹ 20 lakhs from Shri M.S. Sojitra.

4. On verification of details, the AO observed that the assessee had purchased agricultural land at Kuvada on 05-01-2013. The assessee did not have agricultural land before the date. Despite of not having any agricultural

land in financial year 2011-12, the assessee has shown agricultural income of ₹ 1.58 lakhs. Further, during the impugned assessment year, the assessee has shown agricultural income of ₹ 25.93 lakhs which is very intriguing. The AO observed that the assessee has not been able to furnish any supporting evidence to prove the genuineness of loan of ₹ 20 lakhs taken from Mr. Sojitra and therefore, the same remains unverified. The AO further observed that in the original return of income filed on 30-01-2014, the assessee had shown "Nil" unsecured loan, whereas in the revised return filed by the assessee on 31-03-2015, the assessee has shown unsecured loan of ₹ 10.5 lakhs. This fact shows that the assessee had filed revised return of income only after the case was selected for scrutiny and the AO was seized of the matter. Regarding the sale of agricultural produce to M/s Vaibhav Cotton, the AO observed that the assessee acquired several bills from M/s Vaibhav Cotton for very close dates and hence the sale bills produced by the assessee are clearly not genuine. Accordingly, notice under section 133 (6) was issued to M/s Vaibhav Cotton, which remained uncompiled with since M/s Vaibhav Cotton did not respond to the aforesaid notices issued by the Ld. Assessing Officer . Therefore, the assessee was requested to produce books of accounts, but the assessee failed to produce the same as well. Further, the AO observed that the assessee had not incurred any agricultural expenses as well during the year under consideration. Accordingly, the AO held that from the facts of the case, it is evident that the assessee has shown agricultural income and unsecured loan in order to cover up the investment in property. Accordingly, in the instant facts, the AO held that the investment in property amounting to ₹ 45,10,700/- as unexplained and

unaccounted investment under section 69 of the Act and added the same to the total income of the assessee.

5. In appeal before Ld. CIT(Appeals), he dismissed the appeal of the assessee with the following observations:

“6. Decision

6.1 Ground of appeal no: 3

Having considered facts and circumstances of the case and rival contentions, I find that the assessee had not disclosed the impugned property purchase in the return of income. When faced with inquiries by the ITO(I& CI) the assessee explained the source of purchase to be from agricultural income and unsecured loan and revised the returned income showing some unsecured loan. Before the Assessing Officer, the assessee did not furnish any explanation. She did not respond to the show cause notices issued by Assessing Officer. The Assessing Officer has very cogently brought out that assessee did not have any agricultural land a year back, the agricultural income was shown unreasonably high and that unsecured loan were not proved genuine with any evidence. I also find that no agricultural income was declared in the return of income. All these facts amply prove that claim of assessee is an after thought without any evidence. Neither has she proved genuineness of the agricultural income nor has she proved the unsecured loan to be genuine.

The onus to prove the unsecured loan genuine by establishing identity of creditors, their credit worthiness and genuineness of credits is squarely on assessee. This onus has not been discharged. The Assessing Officer has thus rightly held the investments merit to be out of unexplained source. The addition is sustained. The Grounds of appeals 1 to 3 are rejected.”

6. The assessee is in appeal before us against the order passed by Ld. CIT(Appeals) dismissing the appeal of the assessee. Despite several

opportunities given to the assessee for appearance, none has appeared before us on behalf of the assessee to argue the case in merits. Accordingly, we are passing the order on the basis of material before us. On going through the assessment and the appellate records, we find no infirmity in the order of AO/ CIT(Appeals) so as to call for any interference. The assessee had purchased land in Kuvada and when asked to explain the source of such investment, the assessee submitted that the same was funded firstly out of sale of agricultural produce to M/s Vaibhav Cotton and secondly out of sale of agricultural produce to unregistered farmers amounting to ₹ 3 lakhs and further from amount of ₹ 20 lakhs taken as unsecured loan from one Mr Sojitra. As per observations made by the AO in the assessment order, and notice under section 133(6) issue to M/s Vaibhav Cotton, the AO observed that the assessee has not been able to establish sale of agricultural produce to M/s Vaibhav Cotton. Further, even the sale of agricultural produce to unregistered farmers remained unverified. Further, the AO observed that the assessee has not incurred any agricultural expenses during the year under consideration. He further observed that in the original return filed by the assessee, he had shown unsecured loans at "Nil" and subsequently when the case of the assessee was taken up for scrutiny, the assessee filed revised return of income declaring unsecured loan at ₹ 10.5 lakhs and fixed assets of ₹ 45.44 lakhs. Accordingly, the AO observed that from the facts it is evident that the revised return was filed by the assessee only with a view to cover of the source of investment for purchase of land situated at Kuvada, which was subject to scrutiny by the AO during the course of assessment proceedings. In our considered view, the AO and Ld. CIT(Appeals) have rightly held that assessee has not been able to explain the source of

investments made by the assessee in the aforesaid property and rightly added the aforesaid sums as unexplained investments in the hands of the assessee under section 69 of the Act.

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

Order pronounced in the open court on 14-03-2023

Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER
Ahmedabad : Dated 14/03/2023

Sd/-
(SIDHHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order,

Assistant Registrar,
Income Tax Appellate Tribunal,
Rajkot