

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. 445/Rjt/2017  
Assessment Year 2013-14**

Bhartiben Vashrambhai Sindhav, 11/8, Bhagirath Society, Raj Garbi Chowk, Sant Kabir Road, Rajkot PAN: EPRPS1483F (Appellant)	Vs	The ITO, Ward-2(1)(3), 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 13-07-2017, 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. The grounds of appeal mentioned hereunder are without prejudice to one another:*

*2. 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. 38,65,491/- made u/s. 69 of the Act being investment made in agricultural land at Kuvadava. The addition may kindly be deleted.*

*3. 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.”*

2. At the outset we observe that the appeal is time-barred by 53 days. However, we observe that none has appeared before us during the course of hearing to explain the delay in filing of appeal. However, considering the small period of delay and also the fact that learned DR has not objected to the matter being disposed of on merits, we are hereby condoning the delay and hearing the appeal on merits.

3. On merits, the facts of the case are that during the year under consideration, the assessee has shown income from job work 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. Savitaben. The assessee's share comes to ₹ 38,65,491/- (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 ₹ 19.35 lakhs to

M/s Vaibhav Cotton and from sale of agricultural produce to unregistered farmers amounting to ₹ 18.63 lakhs. On verification of details, the AO observed that the assessee has shown income from agricultural produce at ₹ 37.99 lakhs during the year under consideration and has also produced two bills from M/s Vaibhav Cotton. However, from the records, the AO observed that it is evident that the assessee has not grown cotton at all. The AO observed that the assessee had shown sales of cotton to M/s Vaibhav Cotton and had obtained two bills from the said party on the very same day, which is not satisfactory. The AO further observed that prior to purchase of impugned land, the assessee own only 2.5 hectares of land and no return of income was filed by the assessee for assessment year 2012-13 and therefore the sudden jump in agricultural income to ₹ 37.99 lakhs during the year under consideration was intriguing. To verify the genuineness of the transaction, the AO issued notice under section 133(6) of the Act to M/s Vaibhav Cotton, however no reply/response was received from the said party. Accordingly, the AO held that investment in property amounting to ₹ 38,65,491/- is unexplained/ unaccounted investment under section 69 of the Act and added the same to the total income of the assessee.

4. In appeal before Ld. CIT(Appeals), he observed that neither the identity of M/s Vaibhav Cotton is established nor the genuineness of transaction has been established by the assessee. Further, while during the course of assessment the assessee had claimed that he had made sale of agricultural produce worth ₹ 18.63 lakhs to unregistered farmers, however, this plea was not taken by the assessee during the course of appellate proceedings. In appellate proceedings, the assessee took an additional plea

that he had received a sum of ₹ 25 lakhs from his brother as gift and the aforesaid property at Kuvada had been funded of the above gift received by the assessee from his brother. However, Ld. CIT(Appeals) noted that the assessee has not produced any confirmation from his brother in support of the above contention/additional plea taken for the first time before him. Thus clearly, the additional plea was rejected since the identity of the donor, his capacity and genuineness of the transactions have not been established by the assessee. Further, Ld. CIT(Appeals) also observed that the assessee took another alternate plea that she had received a sum of ₹ 20 lakhs from Shri Vashrambhai. However, Ld. CIT(Appeals) also rejected this alternate plea for the reason that firstly no such plea was made before the AO and secondly there is no assertion by Shri Vashrambhai that he gifted/loaned any of this amount to the assessee. Further, Ld. CIT(Appeals) observed that the assessee took third alternate plea that the aforesaid land purchased at Kuvada was funded out of sale proceeds of land sold by mother-in-law of the assessee on 24-10-2011 for sale consideration of ₹ 61.66 lakhs. However, Ld. CIT(Appeals) also rejected the third alternate plea taken by the assessee on the ground that there is no assertion from the mother-in-law of the assessee that the consideration received by her from sale of land in October 2011 had been provided by her as gift or a loan to the assessee to make the purchase of land in January 2013 for the land situated at Kuvada. Accordingly, in light of the above observations, Ld. CIT(Appeals) dismissed the appeal of the assessee.

5. 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 Ld. 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. As per observations made by the AO in the assessment order, and notice under section 133(6) issued 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. In appellate proceedings, again Ld. CIT(Appeals) observed that assessee has not been able to establish sale of agricultural produce to M/s Vaibhav Cotton in the instant set of facts. Further, in appellate proceedings before Ld. CIT(Appeals), the assessee itself discarded his argument that the balance amount of agricultural land was purchased out of sale proceeds of agricultural produce to unregistered farmers and took various alternate pleas/arguments where several alternate contentions were taken by the assessee for the first time before Ld. CIT(Appeals) during the course of appellate proceedings. However, Ld. CIT(Appeals) rejected the alternate arguments/plea of the assessee since the contentions put forth by the assessee remained unverified/unsubstantiated. From the above facts, clearly the assessee has not been able to establish the genuineness of the source of investments made in land purchased at Kuvada and has been taking alternate

/ contradictory contentions before AO and Ld. CIT(Appeals) as to the source of investment made by the assessee for purchase in property at Kuvada, which all remain unverified. Therefore, 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.

6. 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 अग्रहित / 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