

आयकर अपीलीय अधिकरण न्यायपीठ “एक-सदस्य” मामला रायपुर में

**IN THE INCOME TAX APPELLATE TRIBUNAL
RAIPUR BENCH “SMC”, RAIPUR**

**श्री रवीश सूद, न्यायिक सदस्य के समक्ष
BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER**

आयकर अपील सं./ ITA No. 133/RPR/2023

निर्धारण वर्ष / Assessment Year : 2016-17

Garuda Vyapaar Private Limited
G-02, Maruti Lifestyle, Kota,
Raipur (C.G.)-492 001
PAN : AACCG7149C

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer-1(2),
Raipur (C.G.)

.....प्रत्यर्थी / Respondent

Assessee by : Shri R.B Doshi, CA
Revenue by : Shri Piyush Tripathi, Sr. DR

सुनवाई की तारीख / Date of Hearing : 26.05.2023

घोषणा की तारीख / Date of Pronouncement : 26.05.2023

आदेश / ORDER**PER RAVISH SOOD, JM**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Center (NFAC), Delhi, dated 30.01.2023, which in turn arises from the order passed by the A.O under Sec.143(1) of the Income-tax Act, 1961 (in short 'the Act') dated 18.12.2018 for the assessment year 2016-17. The assessee has assailed the impugned order on the following grounds of appeal:

“1. Ld. CIT(A) erred in upholding the action of the A.O in assessing the agriculture income disclosed by the appellant as income from undisclosed source. The addition made by the A.O and confirmed by the Ld. CIT(A) is illegal, arbitrary and not justified.

2. The appellant reserves the right to amend, modify or add any of the ground/s of appeal.”

2. At the very outset of hearing of the appeal, it was submitted by the Ld. Authorized Representative (for short 'AR') for the assessee that the appeal is time barred by 18 days. Elaborating on the reasons leading to the aforesaid delay, the Ld. AR has taken me through the application a/w. affidavit filed by the assessee seeking condonation of the delay therein involved. On a perusal of the aforesaid application a/w. affidavit dated 28.04.2023 of Shri Rajnesh Bathwal, director of

the assessee company, I find that Shri. Rajneesh Bathwal (supra) had fairly admitted that the aforesaid delay of 18 days had occasioned, for the reason that there was failure on his part to log into his e-mail account wherein the aforesaid order of the CIT(Appeals) had been dropped. Considering the fact that the assessee had in all fairness admitted the bonafide reason leading to the delay in filing of the present appeal, I am inclined to condone the delay of 18 days involved in filing of the present appeal. Per contra, the Ld. Departmental Representative (for short 'DR') did not object to the condonation of the delay involved in filing of the present appeal. I, thus, in terms of my aforesaid observations condone the delay of 18 days in filing of the present appeal by the assessee.

3. Succinctly stated, the assessee company had e-filed its return of income for A.Y.2016-17 on 17.10.2016, declaring an income of Rs.16,62,620/-. Case of the assessee was, thereafter, selected for complete scrutiny assessment u/s. 143(2) of the Act for verifying, viz, "whether value of consideration for computation of capital gains has been correctly shown in the return of income".

4. During the course of assessment proceedings, it was, inter alia, observed by the A.O that the assessee had shown agriculture income of Rs.3,57,032/-. On being called upon to furnish the details of

expenses made on agricultural activities, the assessee filed “Sauda Patrak” of Chhatisgarh Rajya Krishi Vipdan (Mandi) Board, which revealed the transaction of sale of paddy by M/s. Adarsh Rice Mill to Gurudev Vyapar Pvt. Ltd. through Mandi. It was observed by the A.O that the aforesaid document filed by the assessee did not establish that the assessee had sold its paddy to M/s. Adarsh Rice Mill. Apart from that, it was observed by the A.O that the assessee had not sold its paddy through Mandi. As the assessee had failed to substantiate the authenticity of its claim of having earned agriculture income of Rs.3,57,032/- therefore, the A.O recharacterized the same as the income of the assessee from undisclosed sources. Accordingly, the A.O vide his order passed u/s. 143(3) dated 18.12.2018 determined the income of the assessee at Rs.20,19,652/-.

5. Aggrieved the assessee carried the matter in appeal before the CIT(Appeals) but without success. As is discernible from the order of the CIT(Appeals), it transpires that the assessee despite having been afforded sufficient opportunities had failed to participate in the proceedings before the first appellate authority. For the sake of clarity, notices issued by the CIT(Appeals) which remained uncompiled with by the assessee are culled out as under:

Sr. No	Date of notice issued	Date of hearing	Mode of Service	Remarks

1.	05.01.2021	20.01.2021	Service by ITBA/email	No response
2.	23.02.2021	10.03.2021	Service by ITBA/email	No response
3.	10.01.2023	25.01.2023	Service by ITBA/email	No response

Be that as it may, the CIT(Appeals) adverting to the merits of the case observed that the assessee company had no case on merits. Elaborating on his aforesaid observation, it was observed by the CIT(Appeals) that the hollow claim of the assessee of having earned agriculture income of Rs.3,57,032/- was not supported by any documentary evidence. It was observed by him that a mere raising of a claim that the A.O had erred in making addition would not give an edge to the assessee. It was further observed by the CIT(Appeals) that the assessee during the assessment proceedings despite specific direction had failed to point out discrepancies in the recharacterizing of the agriculture income as its income from undisclosed sources. Considering the aforesaid facts, the CIT(Appeals) finding no merit in the appeal filed by the assessee dismissed the same.

6. The assessee being aggrieved with the order of the CIT(Appeals) has carried the matter in appeal before me.

7. I have heard the Id. Authorized Representatives of both the parties, perused the orders of the lower authorities as well as the material available on record. Admittedly, it is a matter of fact borne

from record that the assessee had in the course of the assessment proceedings failed to substantiate its claim of having earned agriculture income of Rs.3,57,032/-. The state of affairs qua the issue is no better in the course of proceedings before the CIT(Appeals) and in fact, the assessee had failed to put up an appearance before him. However, I find that the CIT(Appeals) had adverted to the facts of the case and accordingly, observed, that the assessee company had failed to substantiate its claim of having earned agricultural income of Rs.3,57,032/- on the basis of documentary evidence. For the sake of clarity, the relevant observations of the CIT(Appeals) are culled out as under:

“5. On merits also, the appellant has no case. The appellant has challenged the addition made of Rs.3,57,032/- without submitting any evidence or counter arguments in support of its claims. Mere claiming that the AO erred in making the additions does not give an edge to the appellant. During the assessment proceeding, the appellant was requested to furnish a written explanation in respect of the discrepancy. The assessee did not make any compliance to the various statutory non-statutory notices issued to him. In response, neither the appellant nor the authorized representative filed any submissions. In spite of numerous opportunities given to the assessee, the assessee did not make use of these opportunities giving the concrete impression to the undersigned that the assessee had nothing to say or no explanation whatsoever with regard to the source of agricultural income as disclosed by the appellant during the AY 2016-17. Hence, the AO has no option but to add the total discrepancy amount in the total income of the appellant. Further, during the course of appellate proceedings, no reply has been filed by the appellant. Keeping in view all the stated facts and discussions, I find no reason in altering the additions made by the AO. In view of this, the grounds raised by the appellant are dismissed.”

8. Having given a thoughtful consideration to the issue in hand, I find no infirmity in the view taken by the CIT(Appeals), who had rightly observed that the claim of the assessee of having earned agriculture income of Rs.3,57,032/- was devoid and bereft of any merit, thus, uphold his order.

9. In the result, the appeal of the assessee is dismissed in terms of my aforesaid observations.

Order pronounced in open court on 26th day of May, 2023

Sd/-

(रवीश सूद / RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

रायपुर / Raipur; दिनांक / Dated : 26th May, 2023.

#*SB

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. The Pr. Cit-1, Raipur (C.G.)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "एक-सदस्य" बेंच, रायपुर / DR, ITAT, "SMC" Bench, Raipur.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

निजी सचिव /Private Secretary

आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur