

IN THE INCOME TAX APPELLATE TRIBUNAL  
SMC BENCH, PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT

आयकर अपील सं. /ITA No.534/PUN/2023

निर्धारण वर्ष / Assessment Year : 2014-15

Rajendra Namdeorao Kachi, 622 (1+2), 665, Chaitraban, Bibwewadi, Pune 411 037 Maharashtra PAN : AKQPK6537N	Vs.	ITO, Ward-5(3), Pune
Appellant		Respondent

Assessee by Shri Nikhil Pathak  
Revenue by Shri Arvind Desai

Date of hearing 05-07-2023  
Date of pronouncement 06-07-2023

आदेश / ORDER

PER R.S. SYAL, VP:

This appeal by the assessee arises out of the order dated 10-03-2023 passed by the CIT(A) in National Faceless Appeal Centre, Delhi u/s.250 of the Income-tax Act, 1961 (hereinafter also called 'the Act') in relation to the assessment year 2014-15.

2. The only issue raised in this appeal is against the confirmation of addition of Rs.34,82,251/-.

3. Briefly stated, the facts of the case are that the assessee claimed to have received gross agricultural receipts at Rs.40,32,251/- (Onion of Rs.34,79,778 + Potato of Rs.5,52,475) from M/s Shree Data

Digambar Company from sale of agricultural produce during the year under consideration. The assessee submitted that he was not directly involved in agricultural activities, but doing it through two cultivating farmers, namely, Shri Shantaram Ghule and Shri Sunil Ghule. Out of such total sale proceeds of Rs.40,32,251/-, the assessee claimed to have spent Rs.18.00 lakh to these two farmers as agricultural expenses. The AO required the assessee to produce the two farmers. One of them, namely, Shri Shantaram Ghule appeared who stated that the seeds and fertilisers were purchased by the assessee and handed over to him. In response to question No.8, he submitted that the assessee paid him a sum of Rs.1.50 lakh to 2.50 lakh during the year. The AO carried out investigation in respect of the sales of agricultural produce to M/s. Datta Digambar Company. Information u/s.133(6) was called for, which was furnished. On its perusal, the AO observed discrepancies in the bill nos. and the relevant dates on which such bills were claimed to have been issued. As against Bill No.6597 having date of 2-2-2013, the next number was 6595 was having date of 4-12-2013 and No. 6594 of 6-12-2013 and so on. The AO further observed that the sales to M/s. Datta Digambar Company were not routed through Agriculture Produce Market Committee (APMC), Pune. In this backdrop of the facts, the

AO treated the receipts of Rs.40,32,251/- as income u/s.68 of the Act. The Id. CIT(A) reduced the addition by Rs.5.50 lakh. Aggrieved thereby, the assessee is in appeal before the Tribunal.

4. Having heard the rival submissions and gone through the relevant material on record, it is seen that the assessee made out a case that the entire agricultural produce was sold to M/s. Datta Digambar Company. However, M/s. Datta Digambar Company could not place any convincing evidence of transportation of the produce to them. Further, there were no weighing slips available with them. Still further, the sales were not routed through APMC. The books of M/s. Datta Digambar Company disclosed bill nos. and dates in an unevenly order inasmuch as the first bill dt. 2-12-2013 bore No.6595, however, the later bill dt. 6-12-2013 bore the earlier No.6594. Similar is the position regarding all other bills. Likewise bill dt. 30-12-2013 bore No.6579, whereas bill dt. 2-01-2014 bore No.6577. In view of these facts, it is clear that the assessee could not substantiate that the sales were genuinely made to M/s. Datta Digambar Company.

5. Shri Shantaram Ghule, the farmer who cultivated the assessee's land, admitted in his statement before the AO that he was paid a sum of Rs.1.50 lakh to Rs.2.50 lakh for the year under consideration.

This part of the statement has not been controverted by the AO. This shows that some agricultural activity was carried out on the land of the assessee by this person. The Id. CIT(A) has treated normal agricultural expenses at 45% of the gross receipts. By considering Rs.2.50 lakh as equivalent expense at 45%, he extrapolated gross agricultural receipts at Rs.5.50 lakh and confirmed the remaining addition of Rs.34,82,251/- (Rs.40,32,251 – Rs.5.50 lakh). The Revenue has not challenged the order passed by the Id. CIT(A). This shows that the genuine agricultural receipts of Rs.5.50 lakh, as estimated by the Id. CIT(A), is not in dispute. If agricultural expenses of Rs.2.50 lakh are deducted from it, the net agricultural income comes to Rs.3.00 lakh.

6. It is pertinent to note that as against gross agricultural receipts of Rs.40,32,251/-, the assessee reduced Rs.18.00 lakh towards expenses and declared net agricultural income at Rs.22,32,251/-. It is only this income which could have been considered by the AO for the purposes of addition and not the gross receipts at Rs.40.32 lakh. By considering the genuine net agricultural income at Rs.3.00 lakh, the remaining amount of Rs.19.32 lakh is held to be income u/s.68 of the Act.

7. In the result, the appeal is partly allowed.

Order pronounced in the Open Court on 06<sup>th</sup> July, 2023.

Sd/-  
(R.S.SYAL)  
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 06<sup>th</sup> July, 2023  
सतीश

**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The Pr.CIT concerned
4. DR, ITAT, 'SMC' Bench, Pune
5. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

**// True Copy //**

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	05-07-2023	Sr.PS
2.	Draft placed before author	05-07-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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