

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri R.K. Panda, Vice-President
AND
Shri Laliet Kumar, Judicial Member

ITA No.267/Hyd/2023		
Assessment Year: 2015-16		
Shri J Madhusudhan Reddy, Prodattur PAN:AGLPR1898N	Vs.	ACIT Central Circle Tirupati
(Appellant)		(Respondent)
ITA No.268/Hyd/2023		
Assessment Year: 2015-16		
Shri J Rajasekhar Reddy, Prodattur PAN:ADWPR0435M	Vs.	ACIT Central Circle Tirupati
(Appellant)		(Respondent)
Assessee by:	Adv. S. Sandhya	
Revenue by:	Shri Shakeer Ahmed, DR	
Date of hearing:	31/07/2023	
Date of pronouncement:	31/07/2023	

ORDER

Per R.K. Panda, Vice-President

The above two appeals filed by the respective assessees are directed against the separate orders dated 21.3.2023 of the learned CIT (A)-12, Hyderabad relating to A.Y.2015-16. Since the grounds raised by both the assessees in these appeals are identical ,therefore, for the sake of convenience, both the appeals were heard together and are being disposed by this common order.

ITA No.267/Hyd/2023 – Shri J Madhusudhan Reddy

2. Facts of the case, in brief, are that the assessee is the director of the company M/s. Shrusti Contech Pvt Ltd. During the general elections for Andhra Pradesh State Assembly and Lok Sabha in May, 2014, cash of Rs.50,00,000/- was found in the possession of Sri K. Raja and Sri N. Vishnu Vardhan Reddy, employees of M/s. Shrusti Contech Pvt. Ltd. Warrant of Authorization u/s 132A of the I.T. Act, 1961 was issued by the Director of Income Tax (Inv.) Hyderabad on Inspector of Police, Kadapa-I Town Police Station to hand over the cash of Rs.50,00,000/-.

3. Consequent to the search conducted, the group cases of M/s Shrusti Contech Pvt. Ltd including the assessee's case were notified to the Central Circle, Tirupati for coordinated assessment. The assessee in the instant case filed his return of income on 1.3.2016 declaring total income of Rs.6,52,030/- and agricultural income of Rs.6.00 lakhs. Statutory notices u/s 143(2) and 142(1) were issued to the assessee in response to which the AR of the assessee appeared before the Assessing Officer and filed certain details. After considering the submissions made by the assessee, the Assessing Officer rejected the agricultural income shown by the assessee at Rs.6.00 lakhs and made addition of the same to the total income of the assessee as income from other sources by observing as under:

5. During the course of assessment Proceedings, the Authorized Representative of the assessee was required to produce proof for agricultural income i.e., the area of agricultural land held by the assessee, nature of crop grown, yield per acre etc. Assessee was also required to produce the details of produce, expenditure incurred in connection with agricultural activities etc with documentary proof. No evidence whatsoever was filed by the assessee except a lease deed as per which the assessee has taken land on lease. It has been stated that the assessee has not kept any proof for the mango garden and net income was offered after expenditure. In the absence of proof with corroborating evidence for having earned agricultural income, the agricultural income of Rs. 6,00,000/- admitted by the assessee is considered as income from other sources and taxed accordingly. //

4. Since the assessee did not appear before the learned CIT (A) despite number of opportunities granted, the learned CIT (A) in the ex-parte order passed by him sustained the addition made by the Assessing Officer treating the agricultural income as income from other sources.

5. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal by raising the following grounds:

1. The order of the learned Commissioner of Income Tax (Appeals) is erroneous both on facts and in law.
2. The Learned Commissioner of Income Tax (Appeals) erred in deciding the appeal without providing proper opportunity. The appeal was filed before the CIT (A)-3, Visakhapatnam and without notice to the assessee the appeal is transferred to CIT (A)-12, Hyderabad
3. The learned CIT (A) erred in dismissing the appeal confirming the addition made by the Assessing Officer of Rs.6,00,000/-.
4. The learned CIT (A) ought to have seen that the assessee was in possession of 19.29 acres of agricultural land at Proddatur, YSR Kadapa District and income admitted of Rs.6,00,000/- is quite reasonable.
3. Any other ground or grounds that may be urged at the time of hearing.
6. The learned Counsel for the assessee submitted that proper opportunity has not been granted by the learned CIT (A) since most of the notices were issued during the pandemic. She submitted that in the interest of justice, the assessee should be given an opportunity to substantiate his case before either of the lower authorities.
7. The learned DR, on the other hand, while supporting the order of the learned CIT (A) submitted that despite number of opportunities granted, the assessee did not bother to appear before the learned CIT (A) even after the pandemic, therefore, in absence of any other evidence to substantiate the agricultural income, the order of the learned CIT (A) should be upheld and the grounds raised by the assessee should be dismissed.
8. We have heard the rival arguments made by both the sides, perused the orders of the AO and the learned CIT (A) and

the paper book filed on behalf of the assessee. We find the AO in the instant case made addition of Rs.6.00 lakhs to the total income of the assessee treating the agricultural income as “income from other sources” on the ground that the assessee could not substantiate with evidence to his satisfaction regarding the earning of such agricultural income. We find the learned CIT (A) dismissed the appeal filed by the assessee and upheld the addition made by the Assessing Officer in absence of any further submission filed before him despite number of opportunities granted. It is the submission of the learned Counsel for the assessee that due to non-receipt of the notices, the assessee could not appear before the learned CIT (A) and given an opportunity, the assessee is in a position to substantiate his case by filing the requisite details. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the learned CIT (A) with a direction to grant one last opportunity to the assessee to substantiate his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the learned CIT (A) and substantiate his case by filing the requisite details failing which the learned CIT (A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

9. In the result, appeal filed by the assessee is allowed for statistical purposes.

ITA No.268/Hyd/2023 – Shri J Rajasekhar Reddy

10. The grounds raised by the assessee are as under:

1. The order of the learned Commissioner of Income Tax (Appeals) is erroneous both on facts and in law.
 2. The Learned Commissioner of Income Tax (Appeals) erred in deciding the appeal without providing proper opportunity. The appeal was filed before the CIT (A)-3, Visakhapatnam and without notice to the assessee the appeal is transferred to CIT (A)-12, Hyderabad
 3. The learned CIT (A) erred in dismissing the appeal confirming the addition made by the Assessing Officer of Rs.6,50,000/-.
 4. The learned CIT (A) ought to have seen that the assessee was in possession of 9.97 acres of agricultural land at Proddatur, YSR Kadapa District and income admitted of Rs.6,50,000/- is quite reasonable.
 3. Any other ground or grounds that may be urged at the time of hearing.
11. After hearing both sides, we find the grounds raised by the assessee in the above appeal are identical to the grounds raised by the assessee in ITA No.267/Hyd/2023. We have already decided the issue and the matter has been restored to the file of the learned CIT (A) for fresh adjudication. Following similar reasoning, the issue here is also restored to the file of the learned CIT (A) for fresh adjudication in the light of the direction given therein. Accordingly, the appeal filed by the assessee is also allowed for statistical purposes.

12. To sum up, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the Open Court at the time of hearing itself on 31st July, 2023.

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (R.K. PANDA) VICE-PRESIDENT
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Hyderabad, dated 31st July, 2023.

Vinodan/sps

Copy to:

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5	DR, ITAT Hyderabad Benches
6	Guard File

By Order