

आयकर अपीलीय अधिकरण, ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री मंजुनाथ. जी, लेखा सदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष
BEFORE SHRI MANJUNATHA. G, ACCOUNTANT MEMBER AND
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ITA No.242/Chny/2022
निर्धारण वर्ष /Assessment Year: 2015-16

Rajendran Sreedharan,
13-85/42A, Parhitta Vilai Veedu,
Chithral, Chitharal Post,
Kanyakumari District-629151.
[PAN: AFQPR-2835-H]

The Asst. Commissioner of
Income Tax,
Vs. Circle-1,
Nagercoil.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by : Shri T. Vasudevan, Advocate
प्रत्यर्थी की ओर से /Respondent by : Shri R. Mohan Reddy, CIT

सुनवाई की तारीख/Date of Hearing : 01.06.2023
घोषणा की तारीख /Date of Pronouncement : 30.08.2023

आदेश / ORDER

PER MANOMOHAN DAS, J.M:

The appeal filed by the assessee is directed against order of the Learned Principal Commissioner of Income Tax, Madurai-1 [hereinafter "PCIT"] dated 05-05-2020 and pertains to Assessment Year [AY] 2015-16. The assessee raised following grounds of appeal:

1. *The impugned order is illegal, opposed to the facts, contrary to law, without jurisdiction and against the principles of natural justice and therefore liable to be quashed.*

2. *Because the assessee filed copies of returns of his son Mr. Ragul for AYs 2014-15 and 2015-16 before the PCIT-1.*

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3. Because the remaining sundry creditors including Rs.93,00,000/- in the Bricks Unit and Rs.1,12,03,358 /- in KK M Blue Metals unit are old balances of running accounts and not relating to this year and the details for Rs. 1,12,03,358/- were filed before the assessing officer in the letter dated 02.08.2017 highlighting that it was offered under Income Declaration Scheme, 2016.

4. Because the machinery worth Rs. 10 crores were purchased in the earlier year and admitted as opening written down value in this year and therefore beyond the scope of verification during this year.

5. Because the land holding details from the revenue department was filed before the assessing officer and considering the verification conducted in the earlier years on physical visits, he was satisfied about the claim of agricultural income.

6. The learned PCIT-1, Madurai ought to have seen that the assessment order was neither erroneous nor prejudicial to the interest of revenue and therefore ought to have dropped the proceedings under section 263.

7. The appellant prays for leave to add, alter, amend or modify any or all the grounds at any time before or at the time of hearing.

2. There is a delay of 657 days in filing of the appeal by the assessee as noted by the Registry; however, the Bench has condoned the said delay in filing of the appeal which stands condoned in the light of lockdown situation arising out of Covid-19 Pandemic.

3. The brief facts of the case are that the assessee is an individual, e-filed his return of income on 21-03-2016 for the Assessment Year 2015-16 admitting a total income of Rs. 97,58,480/-. Subsequently, the case was selected for limited scrutiny through CASS and a notice under section 143(2) was issued on 26-07-2016 to the assessee which was duly served upon the assessee. The issues for examination were

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(i) Agricultural income, (ii) Sales Turnover Mismatch and (iii) Sundry Creditors. The assessee in response to the notice appeared and filed the details called for. The Ld. Assessing Officer [AO] considered the details and completed the assessment. The Ld. AO vide order dated 22-09-2017 only observed that the assessee had not deducted TDS on Audit Fees of Rs. 70,000/-. Accordingly, 30% of the amount (i.e Rs.21,000/- is disallowed under section 40(a)(ia) of the Income Tax Act, 1961 [the Act] and the same was added to the total income of the assessee.

4. The case has been taken up for revision proceedings under section 263 of the Act and consequently, show-cause notice dated 23-07-2019 was issued and served on the assessee. The assessee was called to explain as to why the assessment order passed by the Assessing Officer under section 143(3) dated 22-09-2017 shall not be revised. The learned PCIT proposed to revise the assessment on the grounds that (i) the AO has not called for the list/ details on the liabilities to the Sundry Creditors and verify the same, (ii) The AO has not verified the details of machineries worth Rs. 10.03 Crores and its utilization for the assessee's business of Blue metals, and (iii) the AO has not obtained any details / evidences regarding the receipt of the agricultural income and verified the same. Therefore, the Id. PCIT

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formed a view that the assessment order passed by Ld. AO is erroneous and prejudicial to the interest of Revenue.

5. In response to the said show cause notice, the assessee submitted that the Ld. Assistant Commissioner of Income Tax carefully considered all the points, written submissions and thereafter completed the scrutiny assessment. The Ld. AO even look into the account, facts of the case including earlier scrutiny proceedings. The assessee claimed that the scrutiny assessment has neither been erroneously completed nor the assessment is prejudicial to the interest of the Revenue.

6. Assessee's further submissions before the Ld. PCIT read as under:-

2. Sundry Creditors Rs. 2,59,81,064/-

The breakup of Sundry Creditors is as follows:

<i>Ragul (Son of the assessee)</i>	<i>51,98,944</i>
<i>Sundry Creditors in Bricks Units</i>	<i>93,00,000</i>
<i>Sundry Creditors in KKM Blue Metals</i>	<i>1,14,82,120</i>

Mr. Ragul is son of the assessee. He was having fixed deposit with Tamilnadu Mercantile Bank. On maturity of Fixed Deposit during this assessment year 2015-16, the proceeds of the same Rs. 51,98,944/- was given to the assessee for his business purposes. Copies of the Income Tax acknowledgement of Mr. Ragul for the assessment year 2014-15 and 2015-16 is enclosed. The assessee has offered Rs. 1,12,03,358/- out of the Sundry Creditors as income under Income Declaration Scheme 2016 (IDS2016) Copy of Form No. 4 under IDS 2016 is enclosed.

Balance Sundry Creditors are all running accounts which have been squared up in the successive years.

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3. Fixed assets:

Fixed assets additions are for the Blue Metals unit mainly capitalized during the assessment year 2014-15. The amount of Rs. 10.03 crore is the opening written down value. The assessee has produced all the bills with ledger account copy to Income Tax Officer (I&CI) for the assessment year 2014-15 during an enquiry.

4. Agricultural income:

The assessee holds approximate 63.74 acres of agricultural lands (Rubber Plantation). Land holding details from the Revenue Department of Government of Tamilnadu was filed during the course of scrutiny hearing. The Officers/ Inspectors of the Department have physically visited the rubber plantations of the assessee in connection with the scrutiny proceedings of earlier years.

7. The Ld. PCIT after considering the aforesaid submissions of the assessee have observed that the assessee failed to furnish evidence for the claim of agricultural income viz. data from the State Government authorities, bills for sale of agricultural produces, ledger accounts, the details of expenses under various heads, market rate for agricultural produces etc. Similarly, the Ld. PCIT observed that, the Ld. AO failed to obtain the details such as names, PAN, confirmation letters, address of the creditors and copies of their return of income and failed to verify the creditworthiness of assessee's claim of the Sundry Creditors. The assessee also failed to verify the details of machineries worth Rs. 10 Crores and its utilization for the assessee's business Blue Metals.

8. Heard the representatives of both the parties and perused the materials on record. Before us the Ld. AR reiterated the submissions made before the Ld. PCIT. Per contra, the Ld. DR supported the order

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of the Ld. PCIT. We have carefully considered the submissions of both the parties and perused the materials on record. We observe that the assessee in order to prove the agricultural income of Rs. 40,00,000/- furnished the Land Revenue records of the State Government which indicates that the land is an agricultural land. The revenue earned from the agricultural land was the agricultural income of the assessee. However, the assessee failed to furnish evidence on the exact earning of agricultural income of Rs. 40,00,000/- during the relevant financial year and the Ld. AO failed to consider this aspect. The Id. AO accepted the claim of the assessee that his agricultural income for the relevant financial year is Rs. 40,00,000/- despite there was no supporting materials/ documents before him about the earning of Rs. 40,00,000/- as income from agriculture. The Ld. AO did not sought any evidence from the assessee on the claimed income of Rs. 40,00,000/- as agricultural income. Land revenue records as was submitted by the assessee cannot be the proof of earning of Rs. 40,00,000/- from the agricultural activities during the relevant assessment year although there might be some agricultural income from that agricultural land. But examining only the revenue documents as submitted by the assessee it cannot be said that there was an income of Rs. 40,00,000/- to the assessee during that relevant assessment year. By furnishing the land revenue record, the assessee

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has only proved that the land is an agricultural land. The assessee in order to prove the agricultural income of Rs. 40,00,000/- had to furnish evidence regarding sale of agricultural products which was ignored by the Ld. AO. Hence, we agree to the finding of the learned PCIT that the Id. AO did not make any enquiry on the agricultural income of Rs. 40,00,000/- as was claimed by the assessee. Accordingly, we decide this ground of appeal against the assessee.

9. Regarding the matter of Sundry Creditors, the assessee only disclosed the name and relation of Mr. Ragul who is one of the sundry creditors. No PAN, confirmation letters, address of the creditors, their creditworthiness were insisted / obtained by the Id. AO during the assessment proceeding. As the assessee borrowed money from some of the persons, the Ld. AO ought to enquire about the creditworthiness of the creditors. He ought to see whether the creditors confirm the credits given by them to the assessee. No such exercise was done by the Ld. AO. Therefore, we are of the view that the Ld. PCIT has rightly observed that the Ld. AO had to obtain the PAN, confirmation letters, addresses, creditworthiness of the sundry creditors before completion of the assessment. Accordingly, we decide this ground also against the assessee.

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10. In the matter of depreciation on the machineries of Rs.10 Crores, the assessee explained that the same is the opening written down value and he had produced all the bills with ledger account copy to the Income Tax Officer for the assessment year 2014-15 during an enquiry. Therefore, we reject the observation of the Ld. PCIT that the AO did not verify the details of machineries. As a result, we decide this ground of appeal in favour of the assessee.

11. In the result, the appeal of the assessee is partly allowed.

Order pronounced on 30th August, 2023.

Sd/-
(मंजुनाथ. जी)
(Manjunatha. G)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 30.08.2023.

EDN/-

Sd/-
(मनोमोहन दास)
(Manomohan Das)
न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF