

IN THE INCOME TAX APPELLATE TRIBUNAL  
“DB” BENCH, JABALPUR  
BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER &  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER  
ITA No. 30/Jab/2023  
(A.Y: 2017-18)

Smt SeemaDeviBakliwal, Near SubjiMandi, Budhwari Bazar, Chindwara-480001, MadhyaPradesh.	Vs.	ITO, Ward-1, Nagpur Road, Chindwara-480001, MadhyaPradesh.
PAN/GIR No. : AFKPB8628Q		
Appellant	..	Respondent

Appellant by :	Shri.Rahul Bardia.FCA.AR
Respondentby :	Shri Rajesh Kumar Gupta. Sr.DR

Date of Hearing	14.09.2023
Date of Pronouncement	18.09.2023

आदेश / O R D E R

**PER PAVAN KUMAR GADALE JM:**

The assessee has filed the appeal against the order of the National Faceless Appeal Centre (NFAC) / CIT(A) passed u/sec 143(3) and 250 of the Act.The assessee has raised the following grounds of appeal as under:

- 1) *The order passed by the Ld CIT (A) sustaining the order of Ld AO is bad in-law and facts, void a initio and without jurisdiction.*

*(2) The Ld CIT (A) erred in allowing the order of Ld AO in which deduction of section 54B of the Income tax act was rejected. The assessee submitted revised khasra recorded of the agricultural land on which details of cultivation is mentioned. The assessee also submitted certificate from vendor who has purchased mango and imli.*

*(3) The Ld CIT (A) erred in rejecting the revised khasra records on the basis that the entries are handwritten. The LdCIT(A) has the power to get the details verified directly or through jurisdictional AO. However, without cross checking the revised report cannot be disbelieved only on assumption.(4) The appellant reserves the right to add, amend or alter any grounds of appeal.*

2. The brief facts of the case are that, the assessee has filed the return of income for the A.Y 2017-18 on 28.03.2018 disclosing a total income of Rs.9,84,760/-. Subsequently the case was selected for limited scrutiny under CASS and notice u/s 143(2) of the Act was issued. The reasons for selection of the case under CASS being (i) Large deduction claimed u/s 54, 54B, 54EG from the capital gains(ii) increase in capital in a year. Further the Assessing Officer (AO) has issued notice u/s 142(1) of the Act along with the questionnaire. In compliance to notice

the assessee has filed the supporting documents online. The assessee is a partner in the firm M/s Manoranjan Hosiery and holding 20% share and received interest income and the assessee has derived long term capital gains. The assessee has explained that she has sold agricultural land for Rs.1.60 crores has disclosed the long term capital gains of Rs.4,75,071/- after claiming exemption under section 54B of the Act of Rs.1,30,29,096/- by investing in the purchase of agricultural land of Rs. 1,19,14,912/- and Rs.7,00,000/- claimed towards development expenses. The AO has called for various details and clarifications and on enquiry, the AO found that the land sold was agricultural land but no crop was produced from F.Y 2014-15 to 2015-16. The AO observed that the Tehsildar has mentioned in the letter dated 09.12.2019 that Bhoomi Padat Hai and was not used for agriculture purpose. The A.O. dealt on the facts and information and denied the exemption claimed U/sec54B of the Act of Rs.1,30,29,096/- and assessed the total income of Rs.1,35,18,250/- and passed the order u/s 143(3) of the Act dated 23.12.2019.

3. Aggrieved by the order, the assessee has filed an appeal before the CIT(A). Whereas the CIT(A) has considered the grounds of appeal, submissions of the assessee and findings of the AO. In the appellate proceedings the CIT(A) found that the assessee has filed additional evidences in respect to the Khasra of agricultural land and the CIT(A) has rejected the claim and has confirmed the action of the AO and dismissed the assessee appeal. Aggrieved by the CIT(A) order, the assessee has filed an appeal before the Hon'ble Tribunal.

4. At the time of hearing, the Ld. AR submitted that the CIT(A) has erred in sustaining the denial of exemption u/s 54B of the Act. The assessee has agricultural income in earlier years from agricultural activities and due to loss incurred, no income was offered in the return of income. Further the Ld. AR submitted that in the appellate proceedings the assessee has filed additional evidence of rectified Khasra from the Tehsildar and the assessee has a good case on merits. The Ld. AR substantiated the submissions with factual paper book and judicial decisions and prayed for allowing the appeal. Per. Contra, the Ld. DR supported the order of the CIT(A).

5. We heard the rival submissions and perused the material on record. The sole disputed issue envisaged by the Ld. AR that the CIT(A) has erred in confirming the denial of exemption under section 54B of the Act irrespective of the fact that the assessee has filed the details before the assessing officer and in the appellate proceedings . The Ld. AR emphasized on the facts of conducting agriculture activities by the assessee and referred to page 5 to 9 of the paper book highlighting the rectified Khasra with the details of crops cultivated during F.Y.2014-15 and F.Y.2015-16. We find that the CIT(A) has not called for any report on these evidences from the A.O. and the Ld.AR compared the original Khasra filed in the assessment proceedings placed at page 53 of the paper book and explained the reasons. Therefore considering the facts, circumstances and evidences and the assessee should not suffer for non filing of material information, as the evidences played vital role in decision making. Accordingly, to meet the ends of justice, we set aside the order of the CIT(A) and restore the entire disputed issue along with the evidences to the file of the Assessing Officer to verify and examine the facts and decide on merits and the assessee should be provided adequate

opportunity of hearing and shall cooperate in submitting the information. Accordingly, we allow the grounds of appeal of the assessee for statistical purposes.

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

Order pronounced in the open court on 18.09.2023.

Sd/-  
(OM PRAKASH KANT)  
**ACCOUNTANT MEMBER**

Sd/-  
(PAVAN KUMAR GADALE)  
**JUDICIAL MEMBER**

Jabalpur, Dated 18.09.2023

KRK, PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. The CIT (Judicial)
4. The PCIT
5. DR, ITAT, Jabalpur
6. Guard File

आदेशानुसार / BY ORDER,

सत्यापित प्रति // True Copy //

1.

( Asst. Registrar)  
ITAT, Jabalpur