

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “SMC”, HYDERABAD**

BEFORE SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.504/Hyd/2023		
Assessment Year: 2017-18		
Vasulu Mittapalli, Nalgonda. PAN : BOKPM3451G (Appellant)	Vs.	The Income Tax Officer, Ward – 1, Nalgonda. (Respondent)
Assessee by:		Sri K.A Sai Prasad, CA, appeared for Sri M.V. Anil Kumar, Advocate.
Revenue by:		Ms. P. Sumitha, Sr. AR.
Date of hearing:		14/11/2023
Date of pronouncement:		14/11/2023

ORDER

PER LALIET KUMAR, J.M.

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.21.08.2023 invoking proceedings under section 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee reads as under :

“1. Your Appellant submits that the only source he has is the agricultural income, which is exempt from tax, therefore it cannot be said to be unexplained and tax as per section 69A of the Income Tax Act, 1961.

2. *Your Appellant submits that provision of section 69A are not applicable to the facts of the case, as your Appellant has only agricultural income of Rs. 17,25,500 which is the only source out of which the cash was deposited in the bank of Rs. 17,25,500. Therefore, the addition of Rs. 12,23,470 sustained by CIT(A) may be deleted.*

3. *Your Appellant submits that the CIT(A) being aware of the fact that agricultural land holding is 44-22 GTs, and agricultural income of Rs. 17,50,200 which is evident from the additional evidence submitted, ought to have admitted the agricultural income of Rs. 17,50,200 instead of Rs. 7,50,000.*

4. *Your Appellant submits that the CIT(A) without proper appreciation of the fact that during the year agricultural income is Rs. 17,50,200 instead Rs. 7,50,000 based on the additional evidence ought to have accepted the same and delete the addition of RS. 12,23,470.*

5. *Your Appellant submits that the CIT(A) having accepted that the fact that there is agricultural income ought to have considered Rs. 17,50,200 as current year agricultural income based on the evidence submitted before CIT(A) instead of Rs. 7,50,000 wrongly admitted in the return and delete the addition of Rs. 12,23,470.”*

3. Facts of the case, in brief, are that assessee is an individual deriving income from other sources and agriculture, had e-filed his return of income for the AY 2017-18 on 31-03-2019 in response to notice u/s 142(1) of the Income-tax Act, 1961 declaring a total income of Rs.2,53,860/- and an agricultural income of Rs.7,50,200/-. The aforesaid return was selected for scrutiny under CASS in 'Limited' category. Subsequently, notices u/s 142(1) were issued and served upon the assessee. However, there is no response from the assessee. Hence, a show cause letter was issued to the assessee seeking information as called for through various notices. As the assessee has not even replied to the show cause notice, despite granting sufficient time, Assessing Officer completed the assessment ex-parte u/s 144 of the IT Act.

3.1. During the course of assessment, Assessing Officer found that assessee has made cash deposits to the tune of Rs.17,25,500/- in various banks during the demonetization period. As the assessee has failed to furnish any explanation with regard to said cash deposits, Assessing Officer treated the same as unexplained money and added it back to the income of the assessee u/s 69A of the Income Tax Act. Further, as the assessee failed to produce various details with regard to his claim of agricultural income of Rs.7,50,200/- in the return of income, despite giving reasonable opportunities, Assessing Officer rejected the assessee's claim of agricultural income to the tune of Rs.7,50,200/- and treated the same as unexplained money u/s 69A of the IT Act and added it back to the income of the assessee. Thus, Assessing Officer completed the assessment u/s 144 of the Act assessing the total income at Rs.27,29,560/-.

4. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal, which was later migrated to the Id.CIT(A), NFAC, Delhi, who granted relief considering the income of the assessee as Rs.7,50,200/- as agricultural income and besides that assessee was also granted relief of Rs.5,02,030/- out of the amount of Rs.17,25,500/- (as unexplained cash deposit / income from other sources).

5. Before me, Id. AR for the assessee contended that as per ground no.4 raised before the Id.CIT(A), assessee has wrongly mentioned as Rs.7,50,200/- as agricultural income as against the actual total agricultural income of Rs.17,25,500/-. Hence, the

assessee is entitled to the relief of Rs.17,25,500/- treating the entire income as agricultural income.

6. On the other hand, ld. DR has opposed the contentions of the assessee stating that assessee has not filed the revised return of income and therefore, he cannot be benefitted with this argument at this stage.

7. I have heard the rival submissions and perused the material on record. In the present case, assessee had only claimed Rs.7,50,200/- as income from agriculture in the return of income besides that he also claimed Rs.2,53,860/- as income from the interest. No other income has been shown by the assessee in the return of income. The dispute before me is whether the amount of Rs.17,25,500/- deposited in the bank during the demonetization period was the income arisen from agricultural income or not. Needless to say that ld.CIT(A) has already granted a relief of Rs.5,02,030/- against the addition of Rs.17,25,200/- and remaining amount of Rs.12,23,470/- was confirmed by the ld.CIT(A). In my opinion, the assessee cannot take the benefit of the fresh claim made in proceedings before the ld.CIT(A). What the assessee can do directly, he cannot do indirectly. As revised return of income was not filed in the present case, I am of the opinion that the contention of the ld. DR is sustainable in the eyes of law, however, considering the submissions of the assessee, more particularly, when the ld.CIT(A) has already granted Rs.5,02,030/- to the assessee.

8. I am further of the view that as the expenditure shown by the assessee towards the cultivation, labour charges, fertilizer charges etc are slightly on the lower side and therefore, the assessee is only entitled to relief of Rs.3 lakhs in addition to relief already granted by Id.CIT(A). Further, I am of the opinion that this extraordinary relief is granted to the assessee due to peculiar circumstances of the case when the Id.CIT(A) had granted the relief, without calling for revised return and on the basis of holding of agricultural land by the ass. Accordingly, the appeal of the assessee is partly allowed.

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

Order pronounced in the Open Court on 14th November, 2023.

Sd/-
(LALIET KUMAR)
JUDICIAL MEMBER

Hyderabad, dated 14th November, 2023.

TYNM/sps

Copy to:

S.No	Addresses
1	Vasulu Mittapalli, H.No.1-3, Hanuman Nagar, Halia Anumula Mandal, Nalgonda – 508202, Telangana.
2	The Income Tax Officer, Ward 1, Nalgonda.
3	PCIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order