

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before: Ms. Suchitra Kamble, Judicial Member

**ITA No. 509/Ahd/2023
Assessment Year 2016-17**

Patel Kirtikumar Jayantilal HUF, 27 Swati Bungalow, Opp. Mann Party Plot, Bodakdev, Thaltej, Ahmedabad PAN: AACHP8533M (Appellant)	Vs	The Income Tax Officer, Ward-3(3)(4), Ahmedabad (Respondent)
---	----	--

Assessee by: Shri Dipen Shukhadia, A.R.

Revenue by: Shri M. Anand Kumar, Sr. D.R.

Date of hearing : 06-11-2023
Date of pronouncement : 03-01-2024

आदेश/ORDER

This is an appeal filed against the order dated 27-05-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2016-17.

2. The grounds of appeal are as under:-

“The following grounds are without prejudice to each other. In view of the facts and circumstances of the case -

- 1. The Learned CIT (A) has erred in upholding the addition of Rs. 1276149/- as other sources of Income, though it has declared as Agriculture income in the Return of Income.*
- 2. The Learned CIT (A) has erred in upholding the addition of Rs. 221980/- as Other sources of Income, on account of holding the agriculture bills non genuine, though it has declared as Agriculture income in the Return of Income.*
- 3. The Learned CIT(A) has erred in upholding the addition of Rs. 863348/-, on account of undisclosed expenditure related to Agriculture income.*

The aforesaid grounds are without prejudice to each other and the appellant craves leave to add/delete/alter and/or amend any of grounds as aforesaid as and when necessary.”

3. The return of income was filed on 28-07-2016 declaring total income at Rs. nil. The return was processed u/s. 143(1) of the Income Tax Act. The case was selected for limited scrutiny for the reason, large agricultural income in comparison to total income. Notice u/s. 143(2) of the Act was issued and served upon the assessee. The assessee submitted the details and after taking cognizance of the same, the Assessing Officer made addition of Rs. 12,76,149/- as income from other sources and disallowed the claim of exempt agricultural income. The Assessing Officer also made addition of Rs. 2,21,980/- in respect of sales bills of M/s.

Prafulchandra Babulal & Co. The Assessing Officer made 40% gross receipt as expenditure and thereby added Rs. 8,63,348/- towards expenses.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee. As regards to ground no. 1, the ld. A.R. submitted that the assessee filed details related to sales bills of agricultural produce and also submitted copy of 7/12 Extract and Form No. 8A as well as the consumption of the water for the crop which has been duly reflected in assessee's land records. The ld. A.R. further submitted that the assessee has also submitted extract of bank accounts and details of all the cash deposits in his bank account which was received from agricultural produce. Thus, the assessee has explained each and every aspect of cash deposits relating to agricultural income and therefore claimed the said income as agricultural income. As regards to ground no. 2, the ld. A.R. submitted that CIT(A) treating the entire agricultural income as income from other sources without acknowledging the bills and the produce as well as the land records of the produce of the assessee for particular year is not justified. As regards ground no. 3, the ld. A.R. submitted that the assessee in fact has disclosed all the expenditure incurred by the assessee to earn agricultural income through land records, the electricity

consumption, water charges etc. but the same was not taken into account.

5. The ld. D.R. submitted that whether these expenses offered in the next financial year or not has not been proved by the assessee as the assessee has not given the details about the agricultural produce to the extent of how the assessee has earned such a huge agricultural income. Thus, the ld. D.R. relied upon the assessment order and the order of the CIT(A).

6. Heard both parties and perused all the relevant materials available on record. It is pertinent to note that all the evidences related to the agricultural land and the produce was before the Assessing Officer as well as before the CIT(A). the CIT(A) without giving opportunity for the assessee and not giving details of services of notice passed ex-parte order without taking cognizance of the evidences. Therefore after looking into the evidences and details filed before the Tribunal by the assessee, it appears that the assessee is earning his income through agricultural produce and in the past assessment order also the Revenue has accepted the said income. In fact, the bills related to the agricultural produce and the details were not computed by the Assessing Officer at any stage and therefore treating the said agricultural income as income from other sources by the Assessing Officer as well

as confirming the same by the CIT(A) is not justified. Thus, ground nos. 1 and 2 are allowed. As regards expenditure incurred regarding agricultural income, the assessee has given all the explanation including land records and the consumption of electricity as well as water bills and therefore the same should have been allowed by the Assessing Officer. Thus, ground no. 3 is allowed.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 03-01-2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad : Dated 03/01/2024

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद