

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ
**IN THE INCOME TAX APPELLATE TRIBUNAL,
" A " BENCH, AHMEDABAD**

**BEFORE Ms SUCHITRA KAMBLE, JUDICIAL MEMBER
And
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.23/AHD/2015

निर्धारण वर्ष/Asstt. Year: 2010-2011

Vatsal Paresh Patel, L/H of Paresh N Patel, 16 Kamalkunj Society, Nizampura, Vadodara-390002. PAN: BLQPP4850H	Vs.	Income Tax Officer, Ward 2(4), Baroda.
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(Applicant)		(Respondent)
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Assessee by :	Shri Hardik Vora, AR
Revenue by :	Ms. Saumya Pandey Jain, Sr.DR

सुनवाई की तारीख/**Date of Hearing** : **07/02/2024**

घोषणा की तारीख /**Date of Pronouncement**: **02/04/2024**

आदेश/ORDER

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The captioned appeal has been filed at the instance of the Assessee against the order of the Learned Commissioner of Income Tax (Appeals)-II, Baroda, arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2010-11.

2. The assessee has raised following grounds of appeal:

1. *The learned Commissioner of Income Tax (Appeals) -II, Baroda [“ the CIT(A)] erred in fact and in law in confirming the action of the Income Tax Officer, Ward 2(4) Baroda [“the AO”] in making addition of agriculture income of Rs. 20 ,74,033/- treating it as income earned from undisclosed sources.*
2. *The learned CIT(A) erred in fact and in law in confirming the action of AO in making addition of Rs. 48,13,367/u/s. 68 of the Income Tax Act, 1961 (“the Act”).*
3. *Without prejudice to Ground nos. 1 and 2, the learned AO erred in fact and in law in not allowing the set off of addition of agriculture income treated as other income from the additions made u/s. 68 of the Act.*
4. *The learned CIT(A) erred in fact and in law in confirming the action of AO in making addition of Land Development expenses of Rs. 3,33,303/-.*
5. *The learned CIT(A) erred in fact and in law in confirming the action of AO in charging interest u / s 234A of the Act.*
6. *The learned CIT(A) erred in fact and in law in confirming the action of AO in charging interest u / s 234B of the Act.*
7. *The learned CIT(A) erred in fact and in law in confirming the action of AO in charging interest u / s. 234C of the Act.*
8. *The learned Assessing Officer erred in fact and in law in intitiating penalty proceeding u/s.271(c) of the Act.*
9. *Your Appellant craves the right to add or alter, amend, substitute, delete or modify all or any of the above grounds of appeal.*

3. The first issue raised by the assessee is that the learned CIT(A) erred in confirming the addition of Rs. 20,74,033/- made by the AO by treating the Agricultural income as income from other sources.

4. The necessary facts are that the assessee is an individual and claims to be engaged in agricultural activities. The assessee during the year has shown gross agricultural receipt of Rs. 37,65,750/- only. The assessee explained that he along with family members hold agricultural land at Chippad village, Taluka Waghodia Dist. Vadodra on which he cultivated Rice, wheat, cotton, and seasonal vegetables. The assessee in support of his contention also furnished a copy of certain sales bills of cotton, rice and wheat aggregating to Rs. 16,91,717/- only. Regarding the remaining receipt, the assessee explained that the vegetables were sold to local purchasers from the farm on daily basis in cash whereas rice and wheat were sold

in cash in local market by ferrying tractor. Therefore, bills or vouchers on the sale of vegetables and rice and wheat sold in local market are not available.

5. The AO to verify the genuineness of claim of the assessee deputed inspector for necessary enquiry who in his report submitted that the assessee for agricultural purposes purchased 105 to 120 vigha land at Chippad Village around 10 years ago. As per the local people, the assessee has been cultivating "cotton" and sometime "Tuvar". The villagers also stated that due to lack of water supply in the area, the cultivation of vegetables is not possible. The villagers also stated that they have no knowledge that the assessee has grown or supplied vegetables to the villagers or nearby places. The inspector also submitted that there were very few mango trees on the land which were not capable of producing mangoes for sale to the outside parties.

5.1 The AO in view of the report of the inspector and considering the climate and water availability condition of the area held that it is nearly impossible to grow vegetable which required substantive amount of irrigation facilities. The AO also observed that, once a piece of land used for cultivation of cotton then such piece of land cannot be used for cultivation of other crop. The AO also found that the assessee has not furnished documentary evidence such as purchase of bill of seeds, pesticides, electricity bill for boring & pumping etc. Thus, the AO was of the opinion that the assessee was able to produce rice, wheat and cotton only which can be cultivated with the support of rainwater only and the same are also supported by sales bill of rice, wheat and cotton aggregating to Rs. 16,91,717/- only furnished by the assessee. Therefore, the AO accepted the genuineness of agricultural receipt to the extent of Rs. 16,91,717/- and treated the remaining amount of Rs. 20,74,033/- as undisclosed income from other sources.

6. Aggrieved, assessee preferred an appeal before the learned CIT(A).

6.1 The assessee before the learned CIT(A) submitted that during the year, he has made sale of agriculture produce detailed as under:

1. Rice	Rs. 8,22,350/-
2. Wheat	Rs. 2,23,550/-
3. Cotton	Rs. 9,22,125/-
4. Vegetables	Rs. 17,97,725/-

Total	Rs. 37,65,750/-

6.2 The AO disbelieved the agricultural receipt to the extent of Rs. 20,74,033/- based on the spot inquiries conducted by the Inspector of Income Tax. The assessee also contended that the inspector in his/her report made general observation on the basis of discussion with villagers. It was also contended that the copy of the inspector report was not provided for rebuttal. Further, the AO alleged that report was made on the basis of input from villagers, however such villagers are unidentified. Therefore, before making any adverse inference an opportunity of rebuttal should have been provided but the same was not done which violated the principles of natural justice. Thus, the addition made by the AO should be deleted on this basis alone.

6.3 The assessee without prejudice to the above submitted that he cultivated different crops on different piece of land, therefore the observation of the AO that a piece of land used for cultivation of cotton cannot be used for cultivation of other crop is based on wrong assumptions of facts and accordingly disbelieving the production of vegetables is devoid of any merit. Likewise, the observation of the inspector and AO that the area where agricultural activity was carried out by him was hit by water scarcity hence cultivation of vegetables was not possible is also devoid of merit. The inspector failed to appreciate the fact that Sardar Srovar Canal was passing right through the agricultural land held by him. For the reason

that the canal was passing through his land, he was entitled to use water from such canal for irrigation purpose.

6.4 The assessee also submitted that agricultural activity largely carried on cash basis without issuing bills or vouchers and it was also duly explained that vegetables and portion of rice and wheat were sold to locals on cash basis. However, whatever bills or vouchers available with respect to sales made and expenses incurred were duly submitted before the AO. Therefore, no adverse inference should be drawn in the absence of documentary evidence such as bills and vouchers.

7. However, the learned CIT(A) after considering facts in totality confirmed the addition made by the AO by observing as under:

In his submissions, appellant has contended that he was cultivating different crops on different lands. However, he has not taken any pain to produce before the Assessing Officer any evidence of having cultivated crops claimed to have been sold. Only a table with description of area of land under cultivation of some crops was furnished before the Assessing Officer. However, no evidence of land holdings of various persons, their consent or agreement to use those lands were filed. How much was the yield per acre and in total what were the expenses, where are the sale bills? These questions were never answered by the appellant. If the crops were sold in APMC, then bills should have been produced. Even commission agents/aarhtias issue bills for crop purchased. The appellant has not produced any details of land records and 7/12 to explain his crop wise yield. The appellant himself has admitted that he carried out agricultural activity on various pieces of lands owned by him and his family members including his father, mother, wife and his maternal grandmother. However, appellant has not furnished details of land holdings of all such persons. How these family members were maintaining their livelihood is not explained by the appellant.

Under these circumstances, I am not inclined to accept the contention of the appellant and hold that there is no need to interfere in the order passed by the Assessing Officer for want of any plausible explanation and positive and conclusive evidence. The reasons for my decision are summarized as below:

- 1. No evidence of ownership of agricultural lands in the name of the appellant as well as his family members was furnished by the appellant.*
- 2. No details of agricultural income earned in earlier years have been filed.*
- 3. No evidence of any payments made to Govt. on account of water for irrigation/electricity for tube-well has ever been filed.*
- 4. No details/bills/evidence of other expenses like labour, seeds, fertilizers, insecticides etc. were filed.*

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5. No evidence has been filed to show that other related persons had allowed appellant to use their lands by the appellant. No details of their house hold expenses vis-à-vis their family-strength are filed.

6. No proof of ownership of agricultural equipment mainly tractor has been filed. Alternatively, evidence of expenses on transportation are not filed.

7. No bills for sale of agricultural produce to APMC/commission agents/aarhtias were filed.

8. No records of talati/patwari regarding area of land under cultivation of various crops were filed including 7/12 records.

9. Appellant has not furnished details of yield per acre or total yield of a particular crop to demonstrate the reasonableness of the claim of agricultural income.

10. Assessing Officer has already accepted agricultural income to the extent of Rs. 16,91,717/- which is more than reasonable.

Under these circumstances, I am not inclined to accept the contention of the appellant and hold that there is no need to interfere in the order passed by the Assessing Officer. This ground of appeal is dismissed accordingly.

8. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

9. The learned AR before us filed a paper book running from pages 1 to 377 and reiterated the contentions made before the authorities below.

10. On the other hand, the learned DR before us reiterated the findings contained in the assessment order and relied on the same.

11. We have heard the rival contentions of both the parties and perused the materials available on record. Admittedly, the assessee has claimed agricultural receipt for the year at Rs. Rs. 37,65,750/- on account of sale of crop namely cotton, rice, wheat, and vegetables. The assessee before the lower authorities only produced the sales bill of rice, wheat and cotton for an amount aggregating to Rs. 16,91,717/- only. The assessee failed to produce evidence regarding the remaining receipt of Rs. 20,74,033/-. The assessee claimed that vegetables and part of rice and wheat cultivated by him were sold to local vendors, hawkers, or individuals directly from farms or through ferry in cash without issuing bills/cash

memo etc. However, the lower authorities noted that no detail of land holding on which different vegetable claimed to be grown were provided neither detail regarding yield per acer etc was furnished. The assessee also failed to produce proof of purchase seeds, fertilizers, pesticides, or insecticide etc. on the cultivation of vegetables neither the evidence regarding irrigation expenses were produced. Therefore, the lower authorities in absence of material evidence treated the agricultural receipt claimed for Rs. Rs. 20,74,033/- not genuine and added the same to the total income of the assessee under the head other income.

11.1 The learned AR for the assessee before us has also not been able to controvert the finding of the lower authorities being AO and the learned CIT(A). Therefore, considering the fact the assessee failed to provide necessary material evidence establishing the genuineness of alleged agriculture receipt for Rs. 20,74,033/-, we hereby do not find any reason to interfere in the finding of the learned CIT(A). Hence the ground of appeal raised by the assessee is hereby dismissed.

12. **The next** issue raised by the assessee is the learned CIT(A) erred in confirming the addition of Rs. 48,13,367/- made under section 68 of the Act.

13. During the assessment proceedings, it was found that the assessee during the year has shown receipt of unsecured loan from Smt. Manishaben Patel (wife) for Rs. 14,32,899/-, from Smt. Pushpaben N Patel (mother) for Rs. 19,70,696/- and from Smt. Hasiben C Patel (maternal grandmother -nani) for Rs. 12,09,772/- only. Apart from above the assessee also received cash of Rs. 1 lac each on 05-01-2010 and 20-01-2010 from two unknown person.

14. The AO found that the assessee despite being raised specific question not furnished copy of bank account, copy of ITR and details of income earned by the creditor in support of genuineness of loan. The assessee also stated that his wife

doesn't have a separate bank account which is contrary to the facts. As such, she has bank account with Dena Bank. Further the assessee at one place claimed to have carried out agricultural activity on land held by the family members including wife, mother and Nani and shown income from such land in his hand only. Now the assessee is claiming to have received loans from wife, mother, and Nani on whose behalf he has shown income. Therefore, the AO held that the amount credited in the assessee book in the name of loan from wife, mother and Nani and Rs. 2 lakh from unknown person are nothing but own unaccounted income of the assessee. Hence the AO treated the same as unexplained credit under section 68 of the Act and added to the total income of the assessee.

15. The aggrieved assessee preferred an appeal before the learned CIT(A).

15.1 The assessee submitted that he and his wife Smt. Manisha Patel have joint bank account and whatever deposit made in the bank account on behalf of his wife are treated as unsecured loan in his books. During the year, the ledger of his wife credited by Rs. 14,32,899/- out of such credit an amount of Rs. 5,67,966/- represent adjustment entry of settlement of SBI loan with FD in her name. Likewise, an amount of Rs. 1,97,433/- was credited on account of advance received by her against sale of land and same can be verified from the sale deed executed where such amount is clearly mentioned. The remaining amount of Rs. 6,67,500/- received by his wife from Smt. Hasiben Patel (his nani) out of agricultural income generated from fruit orchard in Surat. The assessee accordingly submitted that entire credit of Rs. 14,32,899/- duly explained. Hence, the addition of the same needs to be deleted.

15.2 The assessee with regard to the loan credit of Rs. 19,70,696/- from his mother Smt Pushpaben Patel submitted that she also has joint account with him and whatever the amount deposited in bank on her behalf treated as loan in his books of account. It was submitted that out of total credit an amount of Rs.

14,70,696/- received by his mother as advance against sale of agricultural land which can be verified from sale deed. The remaining amount of Rs. 5 lakhs were received by her from her daughters namely Smt. Karuna Patel (Rs. 2.5 Lakh) & Smt. Maisha Patel (Rs. 1.5 Lakh) and from her mother Smt. Hasiben Patel (Rs. 1 Lakh).

15.3 The assessee with regard to credit of Rs. 12,09,772/- in the name of his Nani namely Smt. Hasiben Patel submitted there was an amount of Rs. 64,772/- credited by cheque No. 652575 received by his father as an advance against sale of land. Similarly, an amount of Rs. 5,45,000/- credited by cheque no. 754014 was received by him as advance against sale of land but inadvertently credited in the name of Smt. Hasiben Patel. The assessee in support furnished a copy of sale deed showing impugned cheque numbers. Further, the receipt of Rs. 5,45,000/- included in the computation of capital gain. The remaining amounts of Rs. 6 lakhs were received as loan from Smt. Hasiben Patel which was sourced from agricultural income generated by her from fruit orchard in Surat. The assessee also furnished the details of fruits and their types cultivated from said orchard along with number of trees. Accordingly, the assessee contended that the identity, genuineness and credit worthiness were duly explained.

15.4 The assessee with regard to receipt of Rs. 1 lakh each dated 05-01-2010 and 20-01-2010 submitted that the AO wrongly held that same was received from unknown person. It was submitted during the assessment proceeding confirmation from 2 people namely Shri Harish Patel and Dilip Shah. They have confirmed that the amount was transferred by them as advance for land and the same was returned by cheque during the year when the deal did not materialize.

16. The learned CIT(A) after considering facts in totality confirmed the addition made by the AO by observing as under:

The contention of the appellant is that entire money is explained cannot be accepted as he has not filed any bank account even during the appellate proceedings. Mere fact that the lenders had agreed to sale some lands and received money in lieu of those sales does not prove the theory of the appellant. The assessee has been giving contradictory statements before the AO stating that his wife does not have a separate bank account. However, the assessee's wife is having account with Dena Bank. Further, assessee himself stated that he is carrying on the agricultural activity for himself and on behalf of his family members. During the appellate proceedings, the ground taken by the appellant has not been substantiated. The appellant attended on few occasion and on 27.02.2014 case was adjourned for 14.03.2014 when nobody attended. Again a final opportunity was granted vide notice dated 08.09.2014 but on 19.09.2014 nobody attended. From the conduct of the appellant, presumption arises that he has nothing more to submit. Thus, in absence of any cogent evidence where no bank statement is ever produced before the Assessing Officer or before me, the genuineness of any loan cannot be examined or proved. Under these circumstances, I am not inclined to interfere in the order of the Assessing officer and the addition of Rs.48,13,367/- made by the Assessing Officer u/s.68 of the Act is hereby confirmed. This ground of appeal is also dismissed.

17. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

18. The learned AR before us reiterated the contentions made before the authorities below.

19. On the other hand, the learned DR before us reiterated the findings contained in the assessment order and relied on the same.

20. We have heard the rival contentions of both the parties and perused the materials available on record. The assessee during the year shown receipt of loan from his wife- Manishben Patel, mother- Pushpaben Patel, maternal grandmother (nani)-Hasiben Patel for Rs. 14,32,899/-, Rs. 19,70,696/- and Rs. 12,09,772/- respectively. There was also receipt of Rs. 1 lakh each claimed to have received from the person namely Shri Dilip Shahs and Shri Harish Patel. All these receipts aggregating to Rs. 48,13,367/- was treated as unexplained credit or unaccounted income by the lower authorities for reasons given in their respective orders.

20.1 From the preceding discussion, we note that the assessee has shown loan from his wife Smt. Manisha Patel for Rs. 14,32,899/-. Out of the said amount, the assessee stated that Rs. 5,67,966/- was credited on the occasion of the maturity

of FD held by her wife and maturity receipt was adjusted against the bank loan taken by the assessee. Further an amount of Rs. 1,97,433/- received by his wife against the sale of land property which was credited in the joint bank account of the assessee. The assessee in support of his claim has furnished supporting documents. However, the lower authorities without pointing any defect in the claim of the assessee treated the amount of Rs. 5,67,966/- and Rs. 1,97,433/- as not genuine which in our considered opinion was not justified. Therefore, the amount shown having been received from his wife for Rs. 5,67,966/- and Rs. 1,97,433/- on account of FD maturity and advance against sale of land cannot be added to the total income of the assessee as unexplained money in the given facts and circumstances.

20.2 Likewise, the assessee has shown loan of Rs. 19,70,696/- from his mother Smt. Puspaben Patel out of which an amount of Rs. 14,70,699/- claimed to be received by her against sale of land property deposited in joint bank account of the assessee. The impugned cheque amount is also reflected in the sale deed of the property. The learned CIT(A) has not pointed out any defect in the claim of the assessee regarding cheque received by his mother for sale of land. But treated the same as unexplained credit which was not justified. Therefore, the addition to the extent of Rs. 14,70,669/- on account of loan from mother cannot be sustained.

20.3 Similarly, the assessee claimed to have received the cheque amounting to Rs. 64,772/- and 5,45,00/- which was received by assessee and his father as advance against sale of land property but same was wrongly credited in the ledger account of Smt Hasiben Patel as loan. The assessee in support of his claim submitted a copy of the final sale deed showing the impugned cheque as part of the sale deed. In addition, the sum of Rs. 1 lakh was received by assessee from Smt. Hasiben Patel through banking channel. Smt. Hasiben Patel has the source of agricultural income from fruits orchard in Surat and details of same was also provided. Therefore, considering the above the addition to the extent of Rs.

64,772/-, Rs. 5,45,500/- and Rs. 1 lakh on account of loan from Smt. Hasiben Patel cannot be sustained.

20.4 Now coming to cash loan shown by the assessee from his wife, mother, and maternal grandmother for Rs. 6,67,500/-, 5,00,000/- and Rs. 5,00,000/- respectively, the genuineness of loan amount aggregating to Rs. 16,67,500/- is on doubt as the same was received in cash without being supported by the material evidence. However, we note that the addition of Rs. 20,74,033/- on account agricultural receipt in cash was confirmed by us as receipt from unexplained sources. Therefore, the benefit of telescoping of the same should be provided for the cash loan shown by the assessee from his wife, mother, and maternal grandmother. Hence, the addition to the extent of cash loan for Rs. 16,67,500/- also cannot be sustained in the given facts and circumstances.

20.5 Moving forward to the loan amount of Rs. 2 lakh claimed to be received from Shri Harish Patel and Dilip Shah as advance against proposed sale of property, the assessee claimed that deal not materialized hence same was returned to the party through cheque dated 25-02-210 and 15-03-2010 i.e. during the year itself. However, the AO and the learned CIT(A) without considering the explanation of the assessee and without bringing contrary evidence treated the same as unexplained income of the assessee. The provision of section 68 of the Act empowers the assessing authority to treat the credit in the books of the assessee as unexplained credit deemed to be income from undisclosed source but such power can only be exercised when assessee failed to explain the nature and sources of such credits, or the explanation furnished found not satisfactory by the assessing authority. However, the assessing authority to hold the explanation of the assessee as not satisfactory has to make independent inquiry and carryout necessary investigation to establish the contrary facts or the explanation of the assessee. In the case on hand, the assessing authority without independently verifying the explanation of the assessee and bringing out the contrary material

rejected the explanation of the assessee as not satisfactory in an arbitrary manner. Thus, in view of the above detailed discussion, we hereby set aside the finding of the learned CIT(A) and direct the AO to delete the addition of Rs. 48,13,367 on account of unsecured loan. Hence the ground of appeal raised by the assessee is hereby allowed.

21. **The next** issue raised by the assessee is that the learned CIT(A) erred in confirming the disallowance of land development expenses of Rs. 3,33,303/- only.

22. The AO found that the assessee in the profit and loss account claimed land development expenses of Rs. 3,33,303/- only. The assessee failed to provide the details and nature of land development expenses and supporting documentary evidence. The AO also observed that if land development expenses incurred on any land, then the same should have been disclosed as stock in trade but nothing has been shown as stock-in-trade. Thus, the AO disallowed the land development expenses of Rs. 3,33,303/- and added to the total income of the assessee.

23. The aggrieved assessee preferred an appeal before the learned CIT(A). The assessee before the Id. CIT-A, submitted that expenses were incurred in connection with improvement of agricultural land in the years 2003-04 and 2004-05 and the same has been capitalized and shown as fixed assets. But the AO disallowed such expenses in the year under consideration by treating the same as revenue expenses. Further an expenses can only be disallowed while computing total income under the Act when such expenses have been claimed as deduction against taxable income whereas in the present case, the impugned expenses are in connection with development of agricultural land and income from which is exempt from tax. Therefore, the question of allowability of expenses incurred against exempted income does not arise.

24. However, the learned CIT(A) confirmed the addition made by the AO by observing as under:

5.2 I have considered the submissions of the learned Authorized representative and the order of the Assessing Officer. On verification of profit and loss account, it was noticed that the assessee had claimed an expenses to the tune of Rs.3,33,303/- under the head land development which was disallowed by the Assessing Officer for want of any evidence. Appellant has claimed that the expenses are in respect of exempt agricultural income and hence, cannot be disallowed. During the appellate proceedings, the ground taken by the appellant has not been substantiated. As mentioned in para above, the appellant attended on few occasion and on 27.02.14 case was adjourned for 14.03.2014 when nobody attended. Again a final opportunity was granted vide notice dated 08.09.2014 but on 19.09.2014 nobody attended. From the conduct of the appellant, presumption arises that he has nothing more to submit. Thus, in absence of any cogent evidence, I am not inclined to interfere in the order of the Assessing Officer and the addition of Rs.3,33,303/- made by the Assessing Officer u / s 68 of the Act is hereby confirmed. This ground of appeal is also dismissed.

25. Being aggrieved by the order of the learned CIT(A), the assessee is in appeal before us.

26. The learned AR before us reiterated the contentions made before the authorities below.

27. On the other hand, the learned DR before us reiterated the findings contained in the assessment order/ appellate order and relied on the same.

28. We have heard the rival contentions of both the parties and perused the materials available on record. From the preceding discussion, we note that the AO has made an addition of Rs. 3,33,303/- on the allegation that the assessee has claimed such expenses in the profit loss account under the head, land development expenses. On the other hand, the assessee has claimed that impugned expenses was incurred on improvement of agricultural land during the A.Y. 2003-04 and 2004-05 and not in the year under consideration i.e. A.Y. 2010-11 and further the same was not claimed as revenue expenses but capitalized to the value of land shown under fixed assets. Thus, there is confusion about the nature of expense in dispute whether the same is revenue or capital in nature and

whether the same was incurred in the year under consideration or in the A.Y. 2003-04 and 2004-05.

28.1 Be that as may be, we note the only source of income of the assessee is from agricultural activity. There is no finding of the assessing authority that the assessee has carried out any business during the year and earned income from such business which is part of profit loss account. Thus, even assuming that the impugned expenses of land development claimed in the profit loss account during the year under consideration, but the fact will still remain that the deduction of such expenses claimed in profit loss account against the agricultural income which is not taxable under the Act. Hence, the question of allowance of deduction of expenses against the exempted income become irrelevant. Hence considering the above discussed facts, we are of the opinion that addition on account of disallowances of land development expenses cannot be sustained in the given facts and circumstances. Therefore, we hereby set-aside the finding of the learned CIT(A) and direct the AO to delete the addition made by him. Thus, the ground of appeal of the assessee is hereby allowed.

29. In the result, the appeal of the assessee is hereby partly allowed.

Order pronounced in the Court on 02/04/2024 at Ahmedabad.

**Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

(True Copy)

Ahmedabad; Dated
Manish

02/04/2024