

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "एस.एम.सी", चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCHES, "SMC" CHANDIGARH
HEARING THROUGH: PHYSICAL MODE

श्री विक्रम सिंह यादव, लेखा सदस्य
BEFORE: SHRI. VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA No. 632/Chd/2022
निर्धारण वर्ष / Assessment Year : 2013-14

Shri Darshan Singh H.No. 249, Palsora, Sec-55, Chandigarh-160055	बनाम	The ITO Ward-5(5) Chandigarh
स्थायी लेखा सं. / PAN NO: BAMP50923H		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : None
राजस्व की ओर से / Revenue by : Smt. Amanpreet Kaur, Sr. DR

सुनवाई की तारीख / Date of Hearing : 09/04/2024
उद्घोषणा की तारीख / Date of Pronouncement : 15/04/2024

आदेश / Order

PER VIKRAM SINGH YADAV, AM

This is an appeal filed by the Assessee against the order of the Ld. CIT(A) NFAC, Delhi dt. 27/07/2022 pertaining to Assessment Year 2013-14.

2. In the present appeal, the assessee has taken the following grounds of appeal:

"1. The impugned order is against law and contrary to the facts on record.

2. The Appellate Authority has erred in not properly considering the plea of the appellant that the amount withdrawn from their own bank account were deposited in some other Bank Account. Even though the Assessing Authority as well as Appellate Authority has given the benefit of an amount of Rs.6,90,000/- but has not been given any reason as to why the balance amount of Rs.3,00,000/- is not considered to have been withdrawn from their own account. Since no reason have been given by the Appellate Authority thus the impugned order is bad in law as merits to be quashed.

3. The Officers below have erred in not accepting the plea of the appellant that the amount of Rs.3,92,300/- pertained to agriculture income when his evidence of ownership of land including jamabandi and other ownership documents were already submitted to the assessing officer as well as Appellate Authority. It is not understood as to what more evidence was required to be submitted by the assessee. The assessee had categorically stated that he was engaged in occupation of plantation of vegetable which were sold in cash to various persons for which no other evidence could be expected to be produced. When the assessee was owner of the land and was undertaking the agricultural activity then no addition on that account could have been

made.

4. *The Appellate Authority has wrongly held that the appellant could not substantiate the claim of agriculture income by filing the relevant evidences in support of agriculture of income. The appellant had submitted the copies of the documents like Jamabandi to prove that they were owner of the agriculture land and hence the same has not been considered by the Commissioner of Income Tax (Appeals) while deciding the matter. He has simply burst side, the evidences produced by the appellant and has not given discussed the same. Thus the impugned order being non-speaking merits to be quashed.*

5. *That the appellant craves leave to add, amend or alter any grounds of appeal before the appeal is finally heard off."*

3. None has appeared on behalf of the assessee nor has any adjournment application been filed. Further on perusal of the records, it is noted that the appeal was filed way back in September 2022 and the matter has been adjourned from time to time, however, there has been no effective representation on behalf of the assessee, adjournment has been sought from time to time and the Coordinate Benches have been liberal in granting the adjournments and when the matter was called for hearing today, none appeared nor any adjournment application was filed. I, therefore deem it appropriate to decide the matter based on material available on the record.

4. Through the various grounds of appeal, the assessee has effectively challenged the sustenance of addition of Rs. 6,70,000/-.

5. In the statement of facts, the assessee has submitted as under:

"1. That the Assessee is an individual and the present dispute relates to the assessment years 2013-14. The case of the assessee was re-opened under Section 147 of the Income Tax Act, 1961 and thereafter proceedings were initiated. The assessee filed reply to the notices for making addition given by the Assessing Officer to the tune of Rs. 13,60,000/- as proposed made in respect of the cash deposit made by the assessee during the relevant assessment years.

2. That in reply to the notices, the assessee had filed submission wherein it was clearly demonstrated that the amount deposited in cash pertained to two heads (i) Agriculture income of Rs.3,92,300/- (ii) balance amount pertained to the cash withdrawn from the bank during the period May, 2012 to July 2012 from the bank account. The assessing officer did not accept both the contention of the assessee and has confirmed the demand on both accounts. He made addition of Rs. 13,60,000/- as other income and demanded tax on the said amount.

3. That the reasoning given for not accepting the explanation given by the Assessing Officer was that the assessee has not shown the agriculture income in the filed return by him for the relevant assessment year even though it is not disputed by the Assessing Officer that the evidence of ownership of land has been submitted to him during the assessment

proceedings. As regards the balance cash deposited in the bank account he has not accepted that the amount withdrawn during the months of May, 2012 to July 2012 was kept with him and subsequently deposited in the bank account on the reasoning that no proper explanation has been given as to why the amount was withdrawn in cash from the bank account. Thus he made addition of the above mentioned income to the return of the assessee.

4. The appellant filed an appeal before the Commissioner (Appeals) Income Tax (CIT) against the order of the Assessing Authority contending that no addition was liable to be made.

5. The Commissioner (Appeals) accepted the contention of the appellant with respect to the cash deposited amounting to Rs.6,90,000/- and made an addition of Rs.6,70,000/- as unexplained money under Section 69-A of the Act Act.

6. It was further submitted in the appeal memo that the Appellate Authority has erred in not properly considering the plea of the appellant that the amount withdrawn from their own bank account was deposited in some other Bank Account. Even though the Assessing Authority as well as Appellate Authority has given the benefit of an amount of Rs.6,90,000/- but has not been given any reason as to why the balance amount of Rs.3,00,000/- is not considered to have been withdrawn from their own account. Since no reason have been given by the Appellate Authority thus the impugned order is bad in law as merits to be quashed.

6.1 It was submitted that the Officers below have erred in not accepting the plea of the appellant that the amount of Rs.3,92,300/- pertained to agriculture income when his evidence of ownership of land including jamabandi and other ownership documents were already submitted to the Assessing officer as well as Appellate Authority. It is not understood as to what more evidence was required to be submitted by the assessee. The assessee had categorically stated that he was engaged in occupation of plantation of vegetable which were sold in cash to various persons for which no other evidence could be expected to be produced. When the assessee was owner of the land and was undertaking the agricultural activity, then no addition on that account could have been made.

6.2 It was submitted that the Appellate Authority has wrongly held that the appellant could not substantiate the claim of agriculture income by filing the relevant evidences in support of agriculture of income. The appellant had submitted the copies of the

documents like Jamabandi to prove that they were owner of the agriculture land and hence the same has not been considered by the Commissioner of Income Tax (Appeals) while deciding the matter. He has simply brush aside the evidences produced by the appellant and has not discussed the same. Thus the impugned order being non-speaking merits to be quashed.

7. The Ld. DR is heard who has relied on the order of lower authorities and it was submitted that the Ld. CIT(A) has already allowed substantial relief to the assessee and given the facts and circumstances of the case, no further relief is called for in the facts of the present case and reference was drawn to the findings of the Ld. CIT(A) which are contained in para 6.3 to 6.7 of the impugned order and the contents thereof read as under:

"6.3 DECISION The order u/s 144B rws 147, statement of facts and the submission furnished by the appellant have been considered.

6.4 On perusal of the assessment order and the submission of the appellant it is evident that the AO has given effect of the cash withdrawal of Rs. 14,50,000/ made on 18.08.2012 from Punjab National bank Saving A/c. No 293600010514660 and of Rs. 6,00,000/ made on 18.05.2012 from Punjab National bank saving A/c No 2936000105154970 against the total cash deposit of Rs. 34,10,000/.

6.5 On perusal of the bank statement of Punjab National bank Saving A/c. No 2936000105146607, it is noted that the appellant has also made following cash withdrawals from the same bank account.

<i>Sl</i>	<i>Date</i>	<i>Withdrawal</i>
<i>1</i>	<i>24.05.2012</i>	<i>150000</i>
<i>2</i>	<i>14.06.2012</i>	<i>200000</i>
<i>3</i>	<i>20.07.2012</i>	<i>300000</i>
<i>4</i>	<i>13.09.2012</i>	<i>40000</i>
	<i>Total</i>	<i>690000</i>

6.6 Above cash withdrawals are also made before the cash deposited in the A/c No. 66962 of Punjab & Sind Bank and Punjab National bank Saving A/c. No 2936000105146607 between 18.08.2012 to 06.03.2013. In view of the same the appellant should be given the adjustment of the cash withdrawals of Rs. 6,90,000/ also, in addition to Rs. 20,50,000 already given by AO. Hence, the cash deposit of Rs. 27,40,000/ is considered as explained and remaining amount of Rs. 6,70,000/ is considered as unexplained money u/s 69A of the Act. Grounds of appeal is PARTLY ALLOWED.

6.7. In regard to the agricultural income of Rs. 3,92,300/-, on perusal of the facts in this regard I am of the opinion that the appellant has not substantiated the claim by filing relevant evidences in support. Hence, no adjustment can be given for Rs. 3,92,300/ against the cash deposit made in the accounts."

8. Heard the Id DR and perused the material available on record including the contentions and submissions of the assessee as per the appeal documentation. It is noted that there were cash deposits of Rs 34.10 lacs in the bank accounts of the assessee which were noticed by the AO and the necessary explanation of the assessee was called during the course of assessment proceedings. The AO has accepted the explanation of the assessee to the extent of Rs 20.50 lacs, being the withdrawals made from other bank accounts and addition of Rs 13.60 lacs were made. During the appellate proceedings, the Id CIT(A) has further accepted the explanation of the assessee regarding source of deposits to the extent of Rs 6.90 lacs, being the withdrawals made earlier from the bank accounts and subsequently deposited and remaining addition of Rs 6.70 lacs were confirmed and against which the assessee has come in appeal before us.

9. In his appeal memo, he has stated that the authorities have not considered the explanation regarding earlier cash withdrawal of Rs 3.00 lacs which were subsequently re-deposited in the bank account and secondly, explanation regarding agriculture income of Rs 3.92 lacs has not been accepted. It is noted that assessee has submitted the proof of land holdings and has stated that he has grown and sold vegetables during the year. The authorities below have not disputed the factum of ownership of land or that matter, the land was not fertile enough to grow and sell vegetables, at the same time, in absence of any evidence to substantiate his claim of undertaking agriculture activities by way of growing vegetables and selling the produce has not accepted the said explanation. Even before the Id CIT(A), the assessee has not submitted any supportive documentation to substantiate its claim in terms of nature of vegetables grown, periodicity thereof, cost of seeds and manures, quantity produced and sold, market rate, etc. These details would atleast allow the authorities to estimate and determine the likely cost of producing the vegetables and likely realizable value and in absence of the same, it cannot be expected to determine any reasonable amount even though the actual sale receipt of vegetable produce is not available or cannot be made available given the perishable nature of the produce and sale thereof. Therefore, we find that there is no infirmity in the findings of the lower

authorities as mere making a claim without substantiating the same, the assessee cannot claim to have given the necessary explanation in support of his agriculture income amounting to Rs 3.92 as so claimed.

10. As far as earlier cash withdrawals and subsequent deposit of Rs 3 lacs is concerned, there is nothing on record as to why the explanation of the assessee was not accepted and therefore, the matter is set-aside to the file of the AO for the limited purposes of examining the same afresh after providing reasonable opportunity to the assessee and where the same is found to be in order, allow the necessary relief to the assessee.

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

(Order pronounced in the open Court on 15/04/2024)

Sd/-
विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य / ACCOUNTANT MEMBER

AG

Date: 15/04/2024

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar