

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANJUNATHA. G, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.43/Chny/2019
निर्धारण वर्ष /Assessment Year: 2015-16

Shri K. Mathivathanan,
No.91/15, East Jones Road,
Saidapet,
Chennai – 600 015.
[PAN: AAIPM-6121-E]

The Dy. Commissioner of
Vs. Income Tax,
Corporate Circle-4(2),
Chennai.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by

: Shri N. Arjunraj, C.A for
Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Shri Suresh Guduri, JCIT

सुनवाई की तारीख/Date of Hearing

: 03.04.2024

घोषणा की तारीख /Date of Pronouncement

: 09.04.2024

आदेश / ORDER

Per Manjunatha G, Accountant Member:

1. This appeal in ITA No.43/CHNY/2019 by the assessee is directed against the order of Learned CIT(A), Chennai dated 11.10.2018 for Assessment Year 2015-16 challenging the addition on merit.

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2. Although the assessee has taken seven grounds of appeal but in substance the sole ground is as under for adjudication :-

“Whether CIT(A) was justified in disallowing Rs.14,50,110/- on basis estimate being the entire expenses incurred towards earning the agriculture income reported at Rs.25,00,110/- ?”

3. We have heard the learned representatives of both the parties, perused the findings of the authorities below and the materials available on record. The Ld. counsel for the assessee reiterated the submissions made before the authorities below. The Ld. DR, relied upon the Ld. CIT(A) order.

4. The assessee is in the business of running a restaurant and has declared a business income of Rs.4,01,851/- whereas the income from house property declares is at Rs. 23,97,498/-. The assessee is the owner of about 30 acres of dry /wet agricultural land near Thani.

5. The assessee had declared agricultural income of Rs.25,00,110/- and claimed exemption in the return of income filed. During the course of assessment proceeding, Assessing officer directed the Assessee to submit details with regard to the agriculture income like Pata, Chitta, Adangal etc and proof for expenses towards agricultural activity along with supporting evidence like bills and vouchers etc. It is undisputed fact that the assessee has produced the agricultural land ownership

papers, Pata, Chitta and Adangal before the Assessing Officer but could not submit any proof with regard to the expenses claimed. Hence, Assessing officer added the expenses of Rs.15,80,000/- to the returned income.

6. The addition was challenged before the Id. CIT(A) and it was submitted by the assessee that the revenue records evidencing the holding of agriculture lands to the extent of around 30 acres. Revenue records evidence the cultivation of paddy, mangoes, coconuts, vegetables including ladies finger etc. It was further submitted that due to the nature of the trade / agriculture the entire details with reference to the bills were not placed on record.

7. Ld. CIT(A) noted that none of the incomes have been received by the cheque. All the expenditures claimed by the assessee are in cash, therefore, the claim of Agriculture income of the assessee cannot be believed in its entirety, hence he has estimated the agricultural income. Ld. CIT(A) took a net average income of Rs.35,000/- per acre and allowed the assessee a net agricultural income of Rs.10,50,000/- and the balance of agricultural income of Rs.14,50,110/- is sustained to taxation.

8. Before us, Ld. counsel for the assessee filed a judgement of this Tribunal delivered in the case of Smt. Annakalanjiam Mathivanan Vs The ACIT, Chennai, ITA No.2451/Chny/2018 dated 22.01.2019 and submitted that in similar situation addition was deleted by the Tribunal.

9. We have gone through the judgement of this Tribunal referred supra, and keeping in mind the entire facts, evidences placed on record and nature of Trade / Agriculture, the addition made is on the much higher side. CIT(A) has not given basis to arrive a net average income of Rs.35,000/- per acre. In making guess work or estimate the officer does not possess arbitrary powers to assess any figure as he like. Though quasi judicial in nature these assessments are to be based on the principles of justice, equity and good conscience. Therefore, this Tribunal is unable to uphold the order of the lower authority. The Tribunal in the case cited above, in para 8 held as under:

“6. Moreover, for yield, there cannot be any other evidence other than estimation. A coconut tree may yield 100-120 nuts in a year. Now the Agriculture Department and Agriculture University invented hybrid coconut varieties which give 150-200 nuts in a year. Therefore, estimation of yield in agriculture is something difficult and which needs to be appreciated by the authorities who are performing judicial function. When agricultural produce including coconuts is traded in unorganized market like Uzhavar Sandhai and other local market, expecting the assessee to produce bills and vouchers is

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nothing but asking the assessee to perform an impossible task. Therefore, this Tribunal finds no reason to disallow any claim of the assessee. Had the Assessing Officer found that the assessee has no land or he has not cultivated as claimed, the matter might have stood in a different foot. In this case, the Assessing Officer accepted the fact that the assessee has cultivated the land. The only reason for disallowance is that the assessee could not produce bills and vouchers for sale of agricultural produce and receipts for expenses. Apart from that, the assessee has established by producing copy of adangal extract that the land in question was subject to cultivation. In those circumstances, this Tribunal is of the considered opinion that there is no reason to disallow any part of claim. Therefore, this Tribunal is unable to uphold the order of the lower authority. Accordingly, orders of both the authorities below are set aside and the Assessing Officer is directed to delete the addition of ₹8,00,000/-.

7. In the result, the appeal filed by the assessee is allowed.”

10. Therefore, this Tribunal, in the facts and circumstances of the case, case law referred and in order to secure the ends of justice, take a reasonable a net average income of Rs.70,000/- per acre aggregating to a net agricultural income of Rs. 21,00,000/-. Balance agricultural income of Rs. 4,00,110/- is upheld.

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

Order pronounced on 09th April, 2024.

Sd/-
(महावीर सिंह)
(Mahavir Singh)

उपाध्यक्ष / Vice President

चेन्नई/Chennai, दिनांक/Dated: 09th April, 2024.

EDN/-

Sd/-
(मंजुनाथ. जी)
(Manjunatha. G)

लेखा सदस्य / Accountant Member

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आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF