

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No.515/Bang/2024
Assessment Year: 2017-18

Sri Vakalapudi Ramachandra Rao 9, Venkatagiri Camp Roudakunda Sindhanur 584 128 Karnataka  <b>PAN NO : AMNPR0611D</b>	<b>Vs.</b>	ITO Ward-1 Raichur
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri V. Srinivasan, A.R.
<b>Respondent by</b>	:	Sri Ganesh R. Gale, Standing Counsel for Department

<b>Date of Hearing</b>	:	17.04.2024
<b>Date of Pronouncement</b>	:	17.04.2024

**O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER:**

This appeal by assessee is directed against order of NFAC for the assessment year 2017-18 dated 8.2.2024.

**2.** The assessee raised grounds with regard to sustaining addition of Rs.17.51 lakhs as unexplained SBN cash deposited into his Bank account during demonetization period u/s 69A of the Income Tax Act, 1961 (in short “The Act”).

**3.** The facts of the case are that the assessee has deposited a sum of Rs.17.51 lakhs during demonetization period into his bank account. The assessee shown gross receipt from agricultural activities at Rs.35 lakhs after deducting the expenditure to the tune of Rs.19.25 lakhs and the net agricultural income disclosed by assessee at Rs.15.75 lakhs. The ld. AO while framing the assessment

u/s 143(3) of the Act made the above addition of Rs.17.51 lakhs u/s 69A of the Act. The assessee has carried the appeal before Id. CIT(A) and explained that said amount has been earned out of agricultural activities as the assessee is owning 5.18 acres of agricultural land and also taken 34.3 acres land from different owners for lease to carry out agricultural activities. It was submitted that the assessee has earned agricultural income out of the above land to the tune of net income of Rs.15.75 lakhs and filed copies of land records and lease agreements before the NFAC. However, it was observed by NFAC that the documents filed by the assessee are with regard to sales slip of agricultural produce which was a hand written paper note and lacks evidential value. It does not contain date of each transaction, name of the purchaser, product description i.e. nature of produce and quantity/weight of produce and the entries in sale slips not supported by invoices/bills, weighment slips and freight receipts. Hence, it was rejected by NFAC. Further, it was observed that there was no evidence produced by assessee with regard to purchase of seeds, pesticides, manure, fertilizer and payment of labour charges. With regard to lease agreement, it was observed by NFAC that said agreements were entered in the month of January, 2017 (3 on 24.1.2017 & 1 on 27.1.2017), whereas the lease for agricultural land is for the period 1.6.2016 to June, 2017. Thus, it was noted that though the lease is claimed to have been taken from the year 2016, the agreement based on which such lease was taken were entered in year 2017. Hence, it was inferred that this was an after thought document prepared by the assessee. Hence, no credence has been given to the evidence produced by the assessee and the addition of Rs.17.51 lakhs was made by AO was sustained by NFAC charging tax to the same u/s 115BBE of the Act at 60%. Against this assessee is in appeal before us.

**4.** We have heard the rival submissions and perused the materials available on record. Before us, assessee once again filed the following documents:

- a) Copy of the Record of Rights (vernacular) (proof of ownership of land) along with free English translation.
- b) Copy of the lease deeds (in vernacular) along with the free English translation with respect to agricultural lands taken on leased by the appellant.
- c) Copy of the Bank statement
- d) Copy of the details of the sale slip
- e) Copy of the details of the vehicle numbers
- f) Copy of bank account showing the relevant entry for received subsidy from Government of India.

**4.1** These documents were examined by the lower authorities while sitting at their Chamber without confronting these documents to the signatories of these documents and the documents, which are in written form cannot be rejected suo motu without examining parties concerned therein. Hence, it was submitted that these documents cannot be rejected outrightly and due credence to be given to these documents unless the department is having any contrary evidence to support their claim. Further, it was submitted that the assessee is only an agriculturist and having no other source of income. In such circumstances, department is precluded from treating the agricultural income declared by assessee as non-agricultural income and bring it into tax.

**4.2** In our opinion, in the present case, assessee has filed various evidences. It was not duly verified either by the Id. AO or by the NFAC. It is a well settled position that even if the revenue authorities are not satisfied with the explanations in regard to sources of income, still the Id. AO has to use his discretion in a fair and just manner. It

is a settled position that any man with common prudence cannot overlook the fact that any income generated even if it cannot be explained can come from only one source i.e. agricultural income. Thus, the Id. AO should have desisted from making said addition without bringing any material contrary to the evidence placed by the assessee. The Id. A.R. had made a plea before us that assessee has been carrying the agricultural activities since so many years and he is having earlier opening balance and also current year agricultural income to deposit into bank account.

**4.3** In our opinion, the evidence produced by the assessee is required to be examined at the end of Id. AO and without duly examining properly these documents, the lower authorities taken a decision that assessee is having no agricultural income and the documents produced by the assessee was an after-thought. It is a normal practice in India that the person who is engaged in agricultural activities won't maintain regular books of accounts as in the case of trade and business. The main thrust of agriculture is to carry on agricultural activities and not to maintain regular books of accounts. It is not appropriate on the part of NFAC to hold that assessee has not produced supporting evidence for carrying out agricultural activities and sale of the same. If the assessee is holding 5.18 acres of agricultural land in the assessment year under consideration and also taken 34.3 acres of land on lease for agricultural purpose on lease and primarily satisfying the Id. AO that indeed the assessee carried out the agricultural activities in this land and earned agricultural income, due credence to be given to the evidence placed by the assessee before Id. AO and to be examined properly in the light of our observations and decide accordingly in accordance with law. In view of this, the issue in dispute is remitted to the file of Id. AO for reconsideration.

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

Order pronounced in the open court on 17<sup>th</sup> Apr, 2024

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

**Sd/-**  
**(Chandra Poojari)**  
**Accountant Member**

Bangalore,  
Dated 17<sup>th</sup> Apr, 2024.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**