

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD " SMC " BENCH**

**Before: Shri T.R. Senthil Kumar, Judicial Member  
And Shri Narendra Prasad Sinha, Accountant Member**

**ITA No:867/Ahd/2023  
Assessment Year: 2011-12**

Parshottamdas Somabhai Patel, C/o.S.A Sukhadia Advocate, L-3 Meghalaya Avenue, Near Sardar Patel Colony Naranpura, Ahmedabad-380014.  <b>PAN: AXTPP1377M (Appellant)</b>	Vs	The Commissioner of Income Tax (Appeal), Vadodara  <b>(Respondent)</b>
--	----	---

**Assessee Represented: Shri Dhrunil V Gandhi, AR  
Revenue Represented: Shri Sanjay Jain, SR-DR**

Date of hearing : 20-05-2024  
Date of pronouncement : 22-05-2024

**आदेश/ORDER**

**PER T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

This appeal is filed by the assessee as against the ex-parte appellate order dated 29.08.2023 passed by the the Commissioner of Income-Tax (Appeal)/National Faceless Appeal Centre (NFAC), Delhi arising out of the re-assessment order passed under section 143(3) r.w.s 147 of the Income-Tax Act, 1961 [hereinafter referred to as "the Act"] relating to the Assessment Year (AY) 2011-12.

2. The brief facts of the case are that the assessee is an individual and Proprietor of Hari Krushna Rice Mill. The assessee was deriving agricultural income and meager income from other sources, hence, the assessee has not filed the Return of Income u/s.139 of the Act. The Income Tax Department had information that the assessee had made cash deposits of more-than 10 lacs in his HDFC bank account during the Asst. Year 2011-12, which has escaped to tax. Hence, the assessee was issued with notice u/s.148 of the Act dated 29.03.2018. In response, the assessee filed the Return of Income on 03.08.2018 declaring total income at Rs.11,766/- and agricultural income of Rs.12,78,510/-. The assessee submitted that the cash deposits are from agricultural income and also up-held land holding records jointly held with many other co-owner and some hand written invoices on sale of agricultural produce.

3. The AO was not satisfied with the above explanation and treated the cash deposits in the bank account as unexplained money u/s.69A of the Act and demanded tax thereon.

4. Aggrieved against the same the assessee filed an appeal before the Ld.CIT(A), who was given 5 hearings opportunities between 15.01.2021 to 03.07.2023. However, the assessee failed to response to the hearing notices thereby confirmed the addition made by the AO and dismissed the appeal filed by the assessee.

5. Aggrieved against the same, the assessee is in appeal before us raising the followings grounds of appeal.

3

1. *The learned AO wrongly made addition of INR 18,20,639 as unexplained money without considering the materials on record.*

2. *The learned CIT(A) wrongly dismissed the appeal by considering leaned AO's grounds only.*

3. *The learned CIT(A) wrongly confirmed the addition amounting to INR 18,20,639 as unexplained credit under section 69A of the Income Tax Act, 1961.*

4. *The appellant craves to add, amend, alter or remove any of the above grounds of appeals.*

6. The Ld.Counsel appearing for the assessee submitted that the assessee is a farmer mainly engaged in agricultural activities and deriving income from cultivation of agricultural produce on the land owned by him and his family members. The assessee used to sale agricultural produce through Agricultural Produce Marketing Committee (APMC) Tarapur. The AO dis-believed the sale of agricultural produce bills, which is in hand written, thereby made the addition in the hands of the assessee. The Ld.Counsel submitted before us the confirmation of agricultural produce by Miteshkumar Lallubhai Patel of M/s.Vinayak Trader for sum of Rs.12,87,215/- which is placed on page nos. 52 to 55 of the paper book. Thus, pleaded that the assessee be given one more opportunity of explaining his case before the authority. The Ld.Counsel also also filed the land holding details of the assessee. The Ld.Counsel further stated that the AO is of the wrong impression that “wheat” can only sold in the month of April and May and not in the month of August and September. But it is a fact that assessee has not sold “wheat” in the month of August and September, but sold in the month of June and July 2010. Similarly, the AO of the opinion that paddy could not have been sold during the month of April and May. Whereas the AR claimed that summer paddy sowing season in the Gujarat state and

the crop is harvested in April and May, in Central Gujarat and South Gujarat due to abundance of irrigation water. The assessee is from Central Gujarat has sold summer paddy in the month of April and May which is completed as per the regular harvest season. Thus, the AO made the additions without proper verification and the addition is liable to be deleted.

7. Per Contra, Ld.Sr-DR, appearing for the Revenue supported the order passed by the lower authorities and requested to uphold the same.

8. We have given our thoughtful consideration and perused the materials available on records. The assessee has clearly brought out revenue records about the land holding of the assessee and his family members. The assessee also submitted before us the sale invoices which is hand written in Gujarati on sale of agricultural produces and also confirmation from Miteshkumar Lallubhai Patel of M/s. Vinayak Trader for sum of Rs.12,87,215/- which are forming part of the paper book. Thus, in our considered opinion the AO is not justified in making addition in the hands of the assessee. No doubt, the assessee being a farmer not familiar with the technical updates and could not appeared before the Ld.CIT(A), since the communication were been sent through email. Thus, in the interest of justice, we deem it fit to set-aside the matter to the file of the Jurisdictional Assessing Officer to consider the submission of the assessee and then pass order in accordance with law by giving proper opportunity to the assessee. Thus, the ground raised by the assessee is allowed.

9. In the result, the appeal filed by the assessee is allowed for statistical purposes.

**Order pronounced in the open court on 22-05-2024**

**Sd/-  
(NARENDRA PRASAD SINHA)  
ACCOUNTANT MEMBER**

**Sd/-  
(T.R. SENTHIL KUMAR)  
JUDICIAL MEMBER**

**Ahmedabad : Dated (True Copy)  
22/05/2024**

*Manish*