

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "B", PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
Ms. ASTHA CHANDRA, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.187/PUN/2024

निर्धारण वर्ष Assessment Year : 2017-18

Praful Raghudev Chandawarkar, D-503, Vangough Building, Maestros Apartment, Salunkhe Vihar Road, Wanowarie, Pune 411 040 Maharashtra PAN : AACPC2946D	Vs.	ITO, Circle-7, Pune
Appellant		Respondent

Assessee by : Shri Kishor B. Phadke

Revenue by : Shri Sourabh Nayak

Date of hearing : 03.06.2024

Date of pronouncement : 03.06.2024

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

This is an appeal filed by the assessee directed against the order of Addl.JCIT(A)-2, Chennai, dated 03.11.2023 for the assessment year 2017-18.

2. At the outset, we find that the instant appeal is filed with a delay of 30 days. The assessee had filed an affidavit explaining the reasons which led to delay in presenting the appeal. We are satisfied with the reasons so stated. Thus, we condone the delay in filing of 30 days and proceed to adjudicate the issue.

3. Briefly, the facts of the case are that the appellant an individual, one of the Director in M/s.Chiranjeev Restaurant & Foods Pvt. Ltd. which is engaged in running hotels, camping sites and other provisions of short stay accommodation. The Return of Income for the A.Y.2017-18 was filed on 16.03.2018 declaring total income of Rs.70,95,240/- which is inclusive of agricultural income of Rs.4,08,000/-. The return was processed vide intimation order dated 08.03.2019 u/s.143(1) of the Act making an addition of Rs.5,71,251/-. The disparity between the returned income and the assessed income u/s.143(1) is on account of prima-facie adjustment made based on the information contained in Form No.26AS or Form No.16A or Form No. 16 which were not included in computing the total income in the return of income. The Form No.26AS contains information that there was tax deduction of source in respect of the lease rent received from the agricultural land which was claimed to be an agricultural income by the appellant.

4. Being aggrieved by the said intimation, an appeal was filed before the CIT(A) who vide impugned order partly allowed the appeal while confirming the addition on account of agricultural income of Rs. 4,08,000/-.

5. Being aggrieved, the appellant is in appeal before the Tribunal in the present appeal.

6. We heard the rival submissions and perused the relevant material on record. The provisions of sub-clause (vi) of clause (a) of sub-section (1) of section 143 as introduced by the Finance Act, 2016 w.e.f. 01.04.2017 prescribes that while processing the return of income, the total income or loss shall be computed after making adjustment for the

addition of income appearing in Form No.26AS or Form No.16A or Form No.16 which has not been included in computing the total income in the return of income.

7. The CBDT vide Instruction No.10/2017 dt. 15.11.2017 taking cognizance of the difficulties in ascertaining whether the receipt being shown in these three forms is getting reflected under the heads 'Income from House Property' or 'Income from other sources' in the ITR form had identified certain instances in which case the proposed adjustment shall not be made. One of such instance is that where the return of income in ITR Forms 3, 5 and 6 under the heads 'Income from House Property' or 'Income from other sources', there may be difficulties in ascertaining whether the receipt shown in these three forms is getting reflected under the head 'Income from House Property' or 'Income from other sources'. Therefore, the CPC was advised by CBDT to exclude any likely difference in the income shown under the head 'Income from House Property' or 'Income from other sources' from the purview of intimation proposing the adjustment.

8. Further, it is settled position of law that prima-facie adjustment as contemplated u/s.143(1) can be made only in respect of those items which does not require any further inquiry. If any further inquiry is necessary or further proof is required in connection with the claim for deduction, CPC will have to issue a notice only u/s.143(2) of the Act. In the light of above discussion, the adjustment made by the CPC in its intimation u/s.143(1) is not permissible. Thus, we direct the CPC to delete the prima-facie adjustment of Rs.4,08,000/- and amend the intimation accordingly.

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

Order pronounced on this 03<sup>rd</sup> day of June, 2024.

**Sd/-**  
**(ASTHA CHANDRA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 03<sup>rd</sup> June, 2024

*Satish*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The Pr.CIT concerned
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "B" बेंच,  
पुणे / DR, ITAT, B" Bench, Pune.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune