

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

BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER

ITA No.627/Bang/2024
Assessment year : 2020-21

Datta Prakash Waster, Prop. Shri Siddeshwar Traders, Athani, Tal. Athani. 591 304. PAN : ABOPW 1224D	Vs.	The Income Tax Officer, Ward-1, Bijapur.
APPELLANT		RESPONDENT

Appellant by	:	Shri Chethan Chogule, CA
Respondent by	:	Shri Ganesh R. Gale, Standing Counsel

Date of hearing	:	29.05.2024
Date of Pronouncement	:	12.06.2024

ORDER

Per Laxmi Prasad Sahu, Accountant Member

This appeal is filed by the assessee against the order dated 12.01.2024 of the CIT(Appeals), National Faceless Appeal Centre, Delhi [NFAC], for the AY 2020-21 on the following grounds:-

“1. Because, the learned Commissioner of Income Tax (Appeals) has passed the EX-PARTE order and upheld the additions made by Assessing Officer without giving proper opportunity to the Appellant and without asking for the documents which are necessary for the conclusion of the Appeal, thereby deprived the natural justice.

2. Because, the Assessing Officer made additions to the exempted Agriculture income under the head Income from Other Sources arbitrarily and on estimated basis without going through the actual agricultural land holdings of the Appellant and hence the additions to income be deleted.

3. Because, The Assessing Officer while concluding the assessment did not consider the fact that agricultural income cannot be the same in all the years or all the seasons. While during the AY 2018-19, AY 2019-20, and AY 2021-22 the income from agriculture was on a lower side due to bad climatical conditions, the income in the AY 2020-21 was good due to good climatic conditions. Hence the order of the Assessing Officer is bad in law.

4. The learned Assessing Officer ignored the bills and receipts from agriculture produce and made the additions on estimation basis hence the same needs to be deleted.

5. The appellant craves leave to add and or alter any of the grounds of appeal before or at the time of hearing.”

2. Briefly stated the facts of the case are that the assessee filed return of income on 31.03.2021 declaring total income of Rs.14,44,720 + agricultural income of Rs.30,86,735. The case was selected for scrutiny and statutory notices were issued to the assessee. The main reason for scrutiny under CASS for the reason of substantial increase in agricultural income as compared to the preceding return. The assessee submitted reply stating that he owns an irrigated agricultural land of 18.05 acres in Athani and produced copy of land records. He cultivated crops of Sugarcane and grapes and earned agricultural income of Rs.30,86,735. The AO noted that assessee has not furnished bill for purchase of seeds, fertilizers and other agricultural implements and also record of income. The bills were handwritten bills without

basic details and mode of receipt of sale proceeds. The sale proceeds were not found in bank statement and cash book was not uploaded. The AO considered the average income for 3 years at Rs.6,49,387 and balance of Rs.24,37,348 was disallowed.

3. On appeal, the CIT(Appeals) issued various notices on different dates but there was no response from assessee's side. Accordingly, he dismissed the appeal of the assessee without going into the merits. Aggrieved, the assessee is in appeal before the ITAT.

4. There is a delay of 226 days in filing the appeal and assessee has filed affidavit dated 03.04.2024 stating the email id of tax consultant was given in Form 35 and the order of CIT(Appeals) was not communicated to him and he was also down with viral fever due to which there was delay. The Id. AR requested for condonation of delay.

5. After hearing both the parties, it is observed that there are sufficient reasons for the delay and following the judgment of the Hon'ble Apex Court in the case of Collector, Land Acquisition Vs. MST. Katiji and Others (1987) 167 ITR 471, delay in filing the appeal before the Tribunal is condoned.

6. The Id. AR submitted that assessee filed appeal before the CIT(Appeals) which was later on migrated to NFAC and notices were not served to the assessee and there was no intention to disregard the notices issued by CIT(A). The case was represented before the AO.

He requested for another chance before the CIT(A) and undertook to substantiate the case of assessee with documents.

7. The Id. DR objected to giving another chance to assessee since the CIT(A) granted various opportunities to the assessee.

8. Considering rival submissions, we note that the agricultural income shown by the assessee is very high compared to AYs 2018-19 & 2019-20. The AO has allowed 3 years average agricultural income of Rs.6,49,387 and disallowed the balance amount as unexplained. As per the submission of the assessee the notices issued by the CIT(A) were not served to the assessee. Considering the facts of the case and in the interest of justice, we remit the appeal back to the CIT(Appeals) for fresh consideration after reasonable opportunity to the assessee. The assessee is directed to provide/update its communication email id, address, mobile no. to the revenue authorities and not seek unnecessary adjournment for early disposal of the case.

9. In the result, the assessee's appeal is allowed for statistical purposes.

Pronounced in the open court on this 12th day of June, 2024.

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 12th June, 2024.

/Desai S Murthy /

Copy to:

1. Appellant
2. Respondent
3. Pr.CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.