

**IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD “SMC” BENCH, AHMEDABAD**

BEFORE Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER

**ITA No.676/Ahd/2024
Assessment Year: 2011-12**

Jeevanprasad Narottambhai Patel, Ganpatpura Main Road, Tal-Karjan, Dist. Vadodara, Gujarat - 391 210. [PAN – ASVPP 7868 G]	Vs.	Income Tax Officer, Ward 1(2)(1), Aayakar Bhawan, Race Course Circle, Vadodara, Gujarat - 390007
(Appellant)		(Respondent)
Assessee by	Shri Jigar Adhiyaru, AR.	
Revenue by	Shri Purushottam Kumar, Sr. DR	
Date of Hearing	13.06.2024	
Date of Pronouncement	02.07.2024	

ORDER

This appeal is filed by the assessee against order dated 12.02.2024 passed by the Addl/JCIT(A)-6, Kolkata for the Assessment Year 2011-12.

2. The assessee has raised the following grounds of appeal :-

“1. *Addition of Rs.7,40,193/-, being undisclosed agriculture expenditure.*

1.1 *On the facts and circumstances of the case and in law, the CIT(A) has erred in confirming the disallowance of Rs.7,40,193/-, being undisclosed agriculture expenditure, without considering the merits of the case and prays your honour to kindly delete the same.*

1.2 *The Id. CIT(A) has not considered the facts that the appellant has disclosed ‘net’ agriculture income of Rs.18,50,484/- and therefore, further disallowance of the agriculture expenditure on the basis of presumptions is not valid.*

1.3 *The AO has not disputed the facts that the appellant had carried out agricultural activities during the year under consideration and also accepted the cash deposits in the bank account of the appellant, then the action of the AO in disallowing further agriculture expenditure is illegitimate.*

1.4 *The appellant has declared Rs.18,50,484/-, being ‘Net’ agriculture income, i.e. the appellant has already disallowed the expenditure*

incurred for carrying out agricultural activities while furnishing return of income and therefore, additional disallowance of Rs.7,40,193/- would lead to double taxation.”

3. As per the information, the revenue noticed that the assessee had deposited cash of Rs.11,25,250/- with his savings bank account with HDFC Bank Ltd. However, the assessee did not file the return of income as required u/s.139 of the Income Tax Act, 1961. Therefore, the assessment was reopened u/s.147 of the Act after recording reasons for doing so and notice u/s.148 of the Act was issued on 26.03.2018, which was duly served upon the assessee. In response to the same, the assessee filed the return of income for A.Y. 2011-12 declaring total income at Rs. Nil and agricultural income of Rs.18,50,484/- on 18.09.2018. Thereafter, notice u/s.143(2) of the Act was issued on 15.10.2018. The reasons for reopening of the assessment were also furnished to the assessee vide letter dated 15.10.2018. Notices u/s.142(1) of the Act were issued on 02.07.2018, 10.08.2018,10.09.2018 and 15.10.2018. In response to the said notices, the assessee vide letter dated 26.10.2018 furnished the reply and details including copy of 7/12 extracts and confirmation from Ganpatpura Vivid Karyakari Sahakari Mandli Limited and a cash flow statement. The assessee explained that the source of cash deposited was out of agricultural income and also redeposit of cash withdrawn from the bank accounts. After taking cognisance of the said details and the submissions, the Assessing Officer observed that since no details or source of funds were furnished, the same should be treated as unaccounted expenditure incurred from undisclosed sources not disclosed in the return of income and thus, made addition of Rs.7,40,193/-.

4. Being aggrieved by the Assessment Order, the assessee filed appeal before the CIT(A). The CIT(A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the assessee is an agriculturist and derived income from agricultural activities only. The Ld. AR submitted that from the perusal of ITR acknowledgement filed on 18.09.2018 and ITR Form-2 wherein schedule EI it can be seen that Rs.18,50,484/- was declared under 'Net Agriculture income/any other income for rate purpose'. The Ld. AR further submitted that in order to substantiate the source of cash deposited in savings account during the assessment proceedings,

the assessee explained the source by producing evidences in the form of extract copies of 7/12, details of land holding, confirmations from Ganpatpura Vivid Karyakari Sahakari Mandli Limited and a cash flow statement. Thus, the assessee has justified the agriculture income as a source of cash deposit into the bank account. In fact, at first instance, the Assessing Officer has satisfied himself with the enough evidences in support of source of cash, being agriculture income. The reason to reopen the case of the assessee is cash deposits in the bank account where assessee has explained the source of the said cash deposits, but the Assessing Officer takes divergent view and went to observe differently from the very basis of reopening thereby making disallowance of expenditure incurred during agricultural activities. The Ld. AR submitted that the assessee never denied the facts that without incurring expenditure agricultural income can be earned. To earn agricultural income, agricultural expenditure has to be incurred. The Ld. AR submitted that the assessee could not submit the evidence of agricultural expenditure which leads to disallowance of expenditure, on estimation, to the extent of 40% of 'net agricultural income' disclosed in the return of income. The Ld. AR submitted that at the time of furnishing return of income, the assessee disclosed 'Net Agricultural Income' of Rs.18,50,484/- which implies that the income of Rs.18,50,484/- is after claiming expenditure for agricultural activities. In such circumstances, disallowing further expenditure would not make sense. The assessee should not be penalized in the form of disallowance of expenditure incurred for carrying out agricultural activities, where the assessee has disclosed 'Net Agriculture Income' in the return of income. The Ld. AR relied upon the order of the CIT(A) in case of assessee's brother Shri Hemleshkumar Narottambhai Patel. In fact, on 07.12.2018, an assessment u/s.143(3) r.w.s. 147 of the Act was concluded in case of Hemleshkumar Narottambhai Patel, with the same addition of Rs.8,04,831/-, being 40% net agricultural income of Rs.20,12,079/-, disclosed in the return of income. On appeal, the CIT(A) deleted the additions stating that where the assessee disclosed 'Net Agricultural Income' in the return of income, the Assessing Officer cannot further disallow the expenditure. Therefore, the Ld. AR submitted that the Revenue itself in contradiction where on CIT(A) deleted the addition in legible manner and the other has confirmed the addition, as happened in case of the assessee. In fact, the Assessing Officer should not be concerned with the activities of a farmer i.e. the Assessing Officer should not step into the shoes of the assessee and

ask the assessee how to carry out agricultural activities. In India, mostly the farmers do not preserve bills for agricultural income and even expenditure. However, in the instant case, the assessee has produced the requisite evidence of agricultural income. Therefore, the Ld. AR prayed that the addition of Rs.7,40,193/- be deleted.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant material available on record. It is pertinent to note that the Assessing Officer as well as the CIT(A) never disputed the assessee is having agricultural income and has incurred expenditure to earn the same. From the perusal of the records, it can be seen that the assessee is having substantial agricultural land and takes cash crops such as Cotton, Sugarcane, banana which yields profits as well as requires substantial expenditure to spend on growing these crops such as purchase of seeds, fertilizer, water charges, labour, transportation, electricity bills etc.. Thus, the expenditure incurred by the assessee for which some of the evidences assessee has given cannot be ignored by the CIT(A). The assessee has given the summary of the cash withdrawals which gives the justification of the expenditure spent on earning agricultural expenses. These facts were totally ignored by the CIT(A). Thus, the CIT(A) was not right in confirming the addition. In fact, in case of brother of the assessee who is also having a substantial agricultural land, the Revenue has granted relief. Thus, the expenditure incurred by the assessee on agricultural land and the income earned of the agricultural land should have been taken into account, thereby allowing the agricultural expenditure. Hence, the appeal of the assessee is allowed.

8. In the result, appeal of the assessee is allowed.

Order pronounced in the open Court on this 2nd July, 2024.

Sd/-
(SUCHITRA KAMBLE)
Judicial Member

Ahmedabad, the 2nd day of July, 2024

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Copies to:

- (1) *The appellant*
- (2) *The respondent*
- (3) *CIT*
- (4) *CIT(A)*
- (5) *Departmental Representative*
- (6) *Guard File*

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Ahmedabad benches, Ahmedabad*