

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 620/Hyd/2024
(निर्धारण वर्ष / Assessment Year: 2021-22)

Prabhakar Jadi Vs. Dy. CIT,
Hyderabad Central Circle 1(1)
[PAN No.AGZPJ3625K] Hyderabad

अपीलार्थी / Appellant प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Advocate T Chaitanya Kumar
राजस्व द्वारा/Revenue by: Shri Aravindakshan, DR

सुनवाई की तारीख/Date of hearing: 09/07/2024
घोषणा की तारीख/Pronouncement on: 19/07/2024

आदेश / ORDER

Aggrieved by the order dated 12/01/2024 passed by the learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Prabhakar Jadi ("the assessee") for the assessment year 2021-22, assessee preferred this appeal with a delay and submitted that the copy of the impugned order was not noticed by the assessee and it is only on the intimation given by the auditor he gave instructions for filing of the appeal, and on verification of the emails by the assessee is not intentional but it is only due to his habit of not verifying the emails regularly. Though the learned DR resisted the condonation of delay, having regard to the facts and circumstances of the

case I deem it just and proper to condone the delay and to proceed to hear the appeal on merits.

2. Assessee is an individual and a non-filer of income tax returns. He, however, in response to the notice under section 142(1) of the Income Tax Act, 1961 (for short "the Act") filed the return of income for the assessment year 2021-22 on 4/11/2022 declaring an income of ₹ 3, 58, 640/-. In respect of the expense is said to have been incurred to earn the income of ₹ 13, 45 Lacs, the assessee did not furnish any material or details like P&L Account, Balance Sheet, Ledger copies etc., and therefore, the learned Assessing Officer estimated the income of 30% thereon and made an addition of ₹ 93, 110/-. Further, the learned Assessing Officer noted in respect of the agricultural income of ₹ 5, 85, 000/- that the documents furnished by the assessee to prove the agricultural income do not belong to the assessee and they are on various names. Even the copies of crop lease agreements also belong to some other period. The learned Assessing Officer, therefore, added the entire amount of ₹ 5.85 Lacs.

3. Aggrieved by such an action of the learned Assessing Officer, assessee preferred appeal before the learned CIT(A). The impugned order reveals that the assessee did not respond to several notices issued by the learned CIT(A) and, therefore, the learned CIT(A) opined that though the assessee filed the appeal, he has no interest in prosecuting the same and perhaps, he is not aggrieved by the assessment order. Learned CIT(A) accordingly dismissed the appeal.

4. Assessee preferred appeal before us stating that he has been maintaining the books of accounts and the deposits in the bank accounts were part of her turnover and, therefore, neither the addition nor upholding the same is sustainable.

5. The Ld. AR submitted that 15% estimation on the turnover real estate business is too high and at best it could be 5%, and to support the

estimated 5% the learned Assessing Officer did not bring on record any evidence. In respect of agricultural income also the Ld. AR submitted that due to the fear of crystallising rights in favour of tenants though the assessee is agricultural income the documents and receipts are issued only on the name of the landlords and merely because no document is available on the name of the assessee the agricultural income of the assessee may not be disbelieved.

6. Learned DR on the other hand supported the orders of the authorities and submitted that when the assessee did not produce any documents whatsoever, the learned Assessing Officer is left with estimation and in his best judgement he estimated the income at 15% on the turnover, and the assessee also has no evidence to support his claim that the income element in real estate business is only 5%. The learned DR further submitted that in the absence of any evidence to support the claim of the assessee that he earns some agricultural income, it is difficult for the authorities to believe the same.

7. Inasmuch as the assessee did not appear before the learned CIT(A), learned CIT(A) passed the impugned order, dismissing the appeal. In respect of the estimate of income on turnover, learned Assessing Officer estimated the same at 15% and according to the assessee it is only at 5%. Though the learned Assessing Officer estimated the same at 15%, the record does not bear any material to support the same. So also, there is no evidence to support the claim of the assessee at 5%. Taking a pragmatic view on this matter, I am of the considered opinion that the ends of justice would be met if the same is estimated at 8% of the turnover. I, therefore, direct the learned Assessing Officer to estimate the income of the assessee on real estate business at 8%.

8. Now coming to the agricultural income, according to the authorities the documents produced by the assessee do not bear his name and the

show the name of some other persons. Assessee does not dispute this fact, but on the other hand states that due to the fear of litigation at the instance of the tenants, the landlords are slow in excluding the documents in favour of the tenants and also that the agricultural marketing committees are also not issuing the receipts on the name of the tenants. Though I cannot brush aside this contention of the assessee, it is difficult that the entire amount of ₹ 5.85 Lacs is derived by the assessee without any document. In the circumstances, I am of the considered opinion that the disallowance of the total receipt does not seem to be correct and at the same time, having regard to the smallest of amount I deem it not proper to send it back for any further verification. To put a quite as to the issue I take a pragmatic view and direct the learned Assessing Officer to take 40% of the receipt as agricultural income of the assessee. Rest of the addition is upheld.

9. In the result, appeal of the assessee is treated as allowed in part.

Order pronounced in the open court on this the 19th day of July, 2024.

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,

Dated: 19/07/2024

PVV/SPS

Copy forwarded to:

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2. Pr. CIT, Central, Hyderabad
3. DR, ITAT, Hyderabad.
4. GUARD FILE