



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No. 197/CTK/2023
Assessment Year :2017-18

Dharmpal Sharma, AT/PO- Papdahandi Nabrangpur, Dist: Koraput-764071	Vs.	Income Tax Officer, Jeypore Ward, Jeypore
PAN/GIR No.AHMPS 4465 Q		
(Appellant)	..	(Respondent)

Assessee by : Shri P.K.Mishra, Adv
Revenue by : Shri S.C.Mohanty, Sr.DR

Date of Hearing : 5/8/2024
Date of Pronouncement : 5/8/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 30.3.2023 in Appeal No.CIT(A), Bhubaneswar-1/14389/2019-20 for the assessment year 2017-18.

2. Shri P.K.Mishra, Id AR appeared for the assessee and Shri S.C.Mohanty, Sr. DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is an individual, who is owning 12.96 acres of agricultural land in Papdahandi, Nabarangpur. It was

the submission that out of said 12.96 acres of land, nearly 11 acres was acquired by National Highway Authority of India towards National Highway development and the assessee had received Rs.33,69,514/- as compensation on the compulsory acquisition. The assessee had shown net agricultural income of Rs.52,00,000/- in his return of income filed. It was the submission that the Assessing Officer accepted the agricultural income of Rs.1,92,570/- representing the evidence in the form of credit to the bank account of the assessee from Odisha State Civil Supply Corporation. The balance of Rs.50,07,430/- was treated as income from "other sources". On appeal, the Id CIT(A) had accepted the assessee's claim of compensation received in respect of acquisition of land of Rs.33,69,514/- and confirmed the balance of Rs.16,37,916/-. It was the submission that it is an accepted fact that the assessee has agricultural income insofar as the Assessing Officer himself has found that the assessee has received the price of paddy from Odisha State Civil Supply Corporation. It was the submission that it is also an accepted fact that out of nearly 13 acres of land, National Highway has acquired nearly 11 acres of land and the assessee is left with only 2 acres of land. It was the submission that the assessee had received the compensation only during the relevant assessment year and till such time, the assessee was utilising the land for agricultural activity. It was the submission that the addition of Rs.16,37,916/- is liable to be deleted.

4. In reply, Id Sr DR submitted that the assessee could not have earned Rs.16,37,916/- as agricultural income and where the assessee has produced the evidence in respect of agricultural income, the Assessing Officer has accepted the same. It was the submission that the addition as made by the Id CIT(A) of Rs.16,37,916/- is liable to be upheld. Ld Sr DR has relied upon the decision of the Hon'ble Supreme Court in the case of CIT vs Venkataswamy Naidu, 29 ITR 529 (SC) to support his argument that the assessee has to place before the Income tax Authorities proper materials which will enable them to come to a conclusion that the income which is sought to be assessed, as agricultural income. It is not for the income tax authorities to prove that it is not agricultural income. He vehemently supported the order of the Assessing officer.

5. We have considered the rival submissions. A perusal of the assessment order at page 3 clearly shows that the Assessing Officer has recognized that the assessee has produced land documents for 12.96 acres. The Assessing Officer also recognizes that the compensation has been received by the assessee for acquisition of land during the relevant assessment year. The Assessing Officer also recognizes that the assessee has received amounts from Odisha State Civil Supply Corporation for selling of paddy. Thus, clearly, the Assessing Officer is well aware that the assessee was holding agricultural land, was doing agricultural operation and this agricultural land has been acquired by National Highway Authority of India.

Now to turn around that the assessee has to prove that he has agricultural income and the assessee has to prove that the income disclosed by him is agricultural income is far-fetched. It is also noticed that the Id CIT(A) has also recognized that the amount of Rs.33,69,514/- was a compensation received by the assessee on account of acquisition of the agricultural land by National Highway and the Id CIT(A) has deleted the said addition. The deletion of addition by the Id CIT(A) has not been appealed by the Revenue. There is only a balance of Rs.16,37,916/-, which is now under consideration. Considering the fact that the Assessing Officer has mentioned that no substantial proof has been produced regarding agricultural operation and also considering the fact that the assessee has agricultural land and is doing agricultural operation and is also having agricultural income, we are of the view that the addition of Rs.16,37,916/- can be reduced to 50% being Rs.8,18,958/-. Thus, the assessee gets relief of Rs.8,18,958/-.

6. In the result, appeal of the assessee stands partly allowed.

Order dictated and pronounced in the open court on 05/08/2024.

Sd/-
(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-
(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 05/08/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. The Appellant : Dharmpal Sharma, AT/PO-
Papdahandinawrangpur, Dist: Koraput-
764071
2. The Respondent: Income Tax Officer,
Jeypore Ward, Jeypore
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT, Berhampur
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.secretary
ITAT, CUTTACK

