

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE SMC BENCH, INDORE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA No.505/Ind/2023
(Assessment Year: 2009-10)

Shri Rajendra Kumar Patidar, 203, Manas Bhawan Extn, 11, RNT Marg, Near Hotel Shreemaya, Indore	Vs.	Income Tax Officer, Shajapur
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AQLPP9145L		
Assessee by	S/Shri Apurva Mehta and Rajesh Mehta, ARs	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	05.08.2024	
Date of Pronouncement	06.08.2024	

ORDER

This appeal by the assessee is directed against the order dated 22.07.2020 of the Commissioner of Income Tax (Appeals), Ujjain for A.Y.2009-10 which is arising from the assessment order u/s 144/147) of the Act dated 27.10.2016 framed by ITO, Shajapur.

2. Registry has informed that there is a delay of 1173 days in filing of the instant appeal. Ld. Counsel for the assessee referring to the affidavit for condonation of delay submitted that the

impugned order was framed on 22.07.2020 and at that point of time whole country was passing through Covid pandemic. Hon'ble Apex Court extended the limitation period up to May, 2022. So almost 2 years delay is attributable to covid restrictions. He further submitted that the assessee is an agriculturist and residing in a remote village. He came to know about the impugned order only when his bank account held with Canara Bank, Shajapur was attached for which notice was received on 13.10.2023. Immediately thereafter assessee approached the consultant for legal aid and filed the appeal. Prayer made to condone the delay. On the other hand Ld. Departmental Representative opposed the request. I however considering the reasons mentioned in the affidavit for condonation of delay more particularly the covid restrictions during 2020-2022 period and also considering the fact that the assessee is an agriculturist and is not conversant with the new technical advancement of communicating orders by e-mail and also to impart fair justice, condone the delay and admit the appeal for adjudication.

3. Assessee has raised following grounds of appeal:

"1. On the facts and in the circumstances of the case and in law, the 1.d. Commissioner of Income Tax (Appeals), Ujjain ("the Ld. CIT(A)") has erred in confirming the addition of Rs. 12,41,500/- made by the Ld. Income Tax Officer, Shajapur ("the Ld. AO") by treating the same as unaccounted income without considering that the assessee is a Kisan (Agriculturist) and the cash is deposited out of agricultural income and there is no unaccounted income of the assessee

2. On the facts and in the circumstances of the case and in law, the 1.d. CIT(A) and the Ld. AO have erred in not appreciating the documentary evidences furnished by the assessee before the 1.d. CIT(A) in the form of additional evidences to substantiate the claim of agricultural income earned by the assessee.

3. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in not deciding the issue on merits of the case and thus, the Order of the 1.d. CIT(A) is liable to be quashed.

4. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in stating that no documentary evidences have been filed by the appellant without appreciating that assessee has submitted bank statement of Narmada Jhabua Gramin Bank, Samagra ID of entire joint family, Rin Pustika of agricultural land held by the assessee, BI-PII (land revenue records), copy of bills relating to sale of agriculture were submitted before the Ld. CIT(A). Thus, the Order of the 1.d. CIT(A) is liable to be quashed and the addition made by the L.d. AO of Rs. 12,41,500/- is liable to be deleted.

5. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) and the Ld. AO has erred in not considering that there are various cash withdrawals of the assessee relating to agricultural activities and thus, entire cash deposited cannot be treated as income without considering the cash withdrawals made by the assessee. Thus, the addition of Rs. 12,41,500/- made by the Ld. AO is liable to be deleted.

The appellant craves leave to add, alter, amend or withdraw any of the grounds of appeal."

4. Brief facts of the case are that the assessee is an individual and claiming to be an agriculturist did not file any return of income for Assessment Year 2009-10. On the basis of the

information received from AIR Ld. A.O observed that the assessee has deposited Rs.12,41,500/- in his savings bank account. To examine this issue Ld. A.O issued notice u/s 148 of the Act to carryout reassessment proceedings but there was no compliance from the assessee's side. Ld.A.O proceeded to frame best judgment assessment u/s 144 of the Act and made addition for undisclosed income of Rs.12,41,500/- and assessed the income at the said amount.

5. Aggrieved assessee preferred appeal before Ld. CIT(A) challenging the impugned addition. He submitted that the assessee owns 12 bigha of irrigated agriculture land and grows wheat, chana, soya cereals etc. and sold agriculture produce in the local mandi for which receipts were duly received. It was claimed that sale proceeds have been utilized for depositing in the bank account. Ld. CIT(A) admitted the additional evidence filed by the assessee and directed Ld. A.O to file a remand report. However in the remand report Ld.A.O discussed about non appearance of the assessee but failed to note the details of agriculture income filed by the assessee. In the rebuttal to remand report assessee again referred to agriculture income. However Ld.CIT(A) without making

any discussion about the details filed by the assessee and the same being the source to deposit the alleged cash confirmed the addition observing as follows:

"6. I have gone through the facts of the case as well as arguments taken on behalf of the appellant. It is observed that the appellant made cash deposit of Rs. 12,41,500/- in his savings bank account during the year. During the assessment proceedings no submission was made. In the course of appellate proceedings, it was argued that the source of cash deposit is out of agricultural income. It is seen that even during the remand processing no direct evidence was filed in support of earning of agricultural income. The AO therefore has reported that the addition made during the assessment requires to be retained.

7. I have considered the facts and I am of the opinion that in the case of agricultural income onus lies with the assessee to prove with supporting evidences, which the appellant has failed to do. I therefore confirm the addition made by the AO of Rs. 12,41,500/-."

6. Aggrieved assessee is now in appeal before this Tribunal. Ld. Counsel for the assessee has filed paper book containing 32 pages and index of the paper book indicates the details filed by the assessee before the lower authorities.

S.No.	Particulars	Page No.	Available before CIT(A)	AO
1	Appellate order of the Ld. CIT(A), Ujjain dated	1-6	Yes	-
2	Assessment order u/s 144/147 of the Act dated 27.10.2016	7-9	Yes	Yes
3	Notice of demand u/s 156 of the Act alongwith computation sheet dated 27.10.2016	10-12	Yes	Yes
4	Reply dated 04.02.2020 filed before the Ld. CIT(A), Ujjain	13	Yes	-
5	Reply dated 04.02.2020 filed	14-15	Yes	Yes

	before the Ld. CIT(A), Ujjain			
6	Bank statement for the FY 2008-09	16-17	Yes	Yes
7	Rin Pustika	18-21	Yes	Yes
8	BI-P II of Agriculture land	22-25	Yes	Yes
9	Sample copies of bills of agriculture produce sold	26-31	Yes	Yes
10	Aadhaar Card of the assessee	32	Yes	Yes

6.1 Referring to the details placed in the paper book Ld. Counsel for the assessee has submitted that the assessee owns agriculture land and the Rin Pustika (P.B page 18-21) states about various types of vegetables and pulses grown by the assessee and further referred to the mandi receipts/commission agent receipts of various agriculture produce sold during the year under consideration. He has stated that the only source of income of the assessee is from the agriculture produce and the same were deposited in cash. He also submitted that there are regular cash withdrawals and the peak bank credit is Rs.6,01,057/- and that too from sale of agriculture produce. He has prayed that the impugned addition may be deleted.

6.2 On the other hand Ld. Departmental Representative supported the orders of both the lower authorities and stated that the assessee had not filed the details of agriculture activity carried

out, details of product wise sales and incidental expenses incurred for agriculture activity. In the absence of these details general submissions of the assessee should not be accepted.

7. I have heard rival submissions and perused the records placed before me. Though the assessee has raised 5 grounds of appeal but the sole grievance is against the finding of Ld. CIT(A) confirming the addition of Rs.12,41,500/- made by the Ld. A.O for unexplained cash deposit. I observe that the assessee resides at village Haripur Teka, Shajapur and is a agriculturist. Since his only source of income is from agriculture he is not filing Income Tax return. However even the farmers also maintains bank account and same is the case with the assessee. He holds bank account at Narmada Jabhua Gramin Bank and during the year under consideration he deposited cash on various dates totaling to Rs.12,41,500/-. Entries of the bank statement (P.B 16-17) indicates that apart from the cash deposit and cash withdrawals the assessee has also taken loan for warehouse purposes on 29.8.2008. I also notice that the peak bank balance is only Rs.601057/- which includes some portion of the warehousing loan of 3 lakh received on 29.8.2008 and Rs.2,60,000/-on 23.10.2008. I also observe that the assessee

owns 12 bigha of agriculture land which is fully irrigated and this fact is not disputed by the revenue authorities. Proof of ownership of agriculture land is placed at page 8-21 of the paper book. Further page 22-25 of Rin Pustika copies provides the detail of the land owner, name of agriculture produced and the total area in which such produce is grown and detail of land being kept as collateral security with the bank. Perusal of the Rin Pustika clearly indicates that the assessee has grown chilli, soyabean and other vegetables. Further sample copies of agriculture produce and sale receipts are placed at page 26 to 31 of the paper book. For Example on 24.01.2009 assessee sold soyabean for a consideration of Rs.2,47,500/- on 25.01.2009 again soyabean sold at Rs.2,52,000/- through M/s Raja Trading Company. On 5.08.2008 agriculture produce has been sold for Rs.3,06,000/- and so on.

7.1 On an overall analysis of the above stated facts I find that the assessee is an agriculturist and is carrying out agriculture activity on his irrigated agriculture land. I also find that during the year under consideration he sold agriculture produce and the same has been utilized for depositing the alleged amount of cash in the bank account on various dates. Thus the assessee has successfully

explained the source of alleged cash deposit. Therefore the finding of Ld. CIT(A) is set aside and impugned addition of Rs.12,41,500/- made by the A.O is hereby deleted. All the grounds of appeal raised by the assessee are allowed.

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

Order pronounced in the open court on 06.08.2024.

Sd/-

(MANISH BORAD)
Accountant Member

Indore, _ 06.08.2024

Dev/Sr. PS

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

By order

*Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore*