

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य एवं
माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य के समक्ष।
BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND HON'BLE SHRI MANU KUMAR GIRI, JM

आयकरअपील सं./ ITA No.908/Chny/2023
(निर्धारणवर्ष / Assessment Year: 2016-2017)

Krishnamoorthy,
No.10/26, Main Street,
Ariaikaran, Kattur,
Vellottamparapu, (PO)
Erode 638 154.

Vs. The Assistant Commissioner of
Income Tax, (OSD),
Ward 2(3),
Erode.

[PAN: BPCPK 4426E]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Shri S. Sridhar, Advocate (Erode)

प्रत्यर्थी की ओर से /Respondent by

: Shri R. Mukundan, IRS, JCIT.

सुनवाई की तारीख/Date of Hearing

: 12.06.2024

घोषणा की तारीख /Date of Pronouncement

: 27.08.2024

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member)

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in order No.ITBA/NFAC/S/250/2023-24/1053824130 (1) dated 20.06.2023. The assessment was framed by the Assistant Commissioner of Income Tax (OSD) Ward 2(3), Erode for the assessment year 2016-17 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act'), vide order dated 31.12.2018.

2. Brief facts of the case are that assessee is an individual and agriculturalist having residence at main street, Arikkarankattur, Vellotamparapu, Erode TK. He has filed IT e return shown an income of Rs 2,72.510/- and agricultural income of Rs. 37,78,483/- for the AY 2016-17. This case was taken for IT scrutiny u/s 143 (2) of the Act issued by the Assessing officer, ward II (3), Erode. The Appellant has furnished all the details and particulars then and there as required by the Assessing officer. The case was selected for complete scrutiny under CASS. Notices u/s 143(2) and u/s 142(1) of the Act were duly issued and served upon the appellant. In response, the appellant submitted the details and it was seen that on examination of details, the appellant claimed huge agricultural income, made cash deposits on various dates. A show cause notice was issued and served upon the appellant. The Assessing Officer completed the assessment u/s 143(3) of the Act by making the following additions:

- 1) Unexplained unproven and unaccounted investments shown as dairy income of Rs.4,04,411/-
 - 2) Salary Payments of Rs.2,25,875/-
 - 3) Unproven, unexplained, unaccounted, unsecured loans of Rs.5,00,000/-
 - 4) Income earned from trading turmeric of Rs.45,00,000/-
 - 5) Unexplained, unproven and unaccounted investments made in banks of Rs.19,68,931/- and assessed the income of the assessee to Rs.78,72,127/-.
- Aggrieved, assessee preferred an appeal before the Id. CIT(A).

3. The Id. CIT(A) also observed that the appellant did not submit any details before the Id. Assessing Officer, however assessed filed an affidavit from the father of Gayatri Devi. The Id. CIT(A) held that neither identity nor proof/evidence of creditworthiness of Miss. Gayatri Devi filed. The Id. CIT(A) held as under:-

'14.4. But it is claimed that it is her father who has given the affidavit. No proof is given to show that this person is father of Miss Gayatri Devi. The appellant also did not explain as to why this affidavit could not be produced before the Assessing Officer during the course of assessment proceedings. Therefore, affidavit is only a self serving document and cannot be relied upon as evidence.

14.5. From the above discussion, it is clear that the appellant did not prove the identity. creditworthiness of the person from whom the unsecured loan was obtained. Mere submitting that the amount was received by cheque, does not absolve the appellant to prove creditworthiness and identity of unsecured loan creditor. Since the appellant could not prove the creditworthiness and identity of the loan creditor, the submissions made by the appellant in this regard are rejected and the addition made by Assessing Officer in this regard is upheld. This issue is dismissed".

4. On the issue of income earned from trading turmeric of Rs.45,00,000/-, the Id. Assessing Officer observed that the assessee has admitted a sum of Rs.37,78,483/- as agricultural income for the AY 2016-2017. The Id. CIT(A) partly upheld the order of Id. Assessing Officer on this issue on the basis of sworn statement of Secretary, Erode Agricultural Produce Marketing Society. In fact, Id. Assessing Officer had already treated that appellant could have earned Rs.2,50,000/- as agricultural income for the relevant assessment year, taking into account the land holding of the appellant. The Id. CIT(A) in the interest of justice adopted Rs.5,00,000/- instead of Rs.2,50,000/- taken by Id. Assessing Officer considering the land holding. Accordingly, 50% of the receipt i.e. Rs.24,33,500/- is adopted as income from trading in turmeric. Aggrieved by the order of the Id. CIT(A), assessee is in appeal before us.

5. At the outset, the Id. Counsel for the assessee submitted that in respect of Rs.5,00,000/- loan, the issue may be set aside to Id. Assessing Officer for re-adjudication and verification. On the second issue of agricultural income, Id. Counsel submitted that since assessee is earning agricultural income from trading in turmeric hence income may kindly be computed @8% of gross income u/s.44AD of the Act.

6. Per contra, Id. Departmental Representative relied upon the orders of lower authorities and submitted that the Id. CIT(A) has already taken a lenient view hence prayed for dismissal of appeal.

7. We have heard the both parties and perused the orders of lower authorities. We find that the issue relating to the loan of Rs.5,00,000/- has not been examined properly at the Id. Assessing Officer level. Hence, we set aside this issue to the file of Id. Assessing Officer to look into this issue afresh. We also direct the assessee to prove identity, creditworthiness and source of loan before the Id. Assessing Officer. As far as agricultural income is concerned, the assessee is trading in turmeric and both authorities below estimated the agricultural income. There was no basis or material before them to estimate 50% of the receipt. We find that 50% of the receipts as income from trading in turmeric is not reasonable. In the interest of justice and based upon judicial precedents, it is required that the assessee should be assessed u/s.44AD of the Act. Hence, the Id. Assessing Officer is directed to compute and treat the income @8% of gross receipts u/s.44AD of the Act.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 27th day of August, 2024, at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(**MANOJ KUMAR AGGARWAL**)

लेखा सदस्य / **ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(**MANU KUMAR GIRI**)

न्यायिक सदस्य / **JUDICIAL MEMBER**

चेन्नई Chennai:

दिनांक Dated :27-08-2024

KV

आदेश की प्रतिलिपि अग्रेषित /Copy to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai/Coimbatore/Madurai/Salem.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF