

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

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA No.277/Ind/2024
(Assessment Year: 2010-11)

Shri Madanlal Malviya, M.G. Road Station, Barnagar, Ujjain	Vs.	Income Tax Officer-1(1), Indore
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AVBPM7912P		
Assessee by	Shri S.S. Deshpande, AR	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	08.08.2024	
Date of Pronouncement	09.08.2024	

O R D E R

This appeal by the assessee is directed against the order dated 26.02.2024 passed by the 2010-11 which is arising from the assessment orders u/s 143(3) r.w.s. 147 of the Act commonly dated 18.12.2017.

2. Assessee has raised following grounds of appeal:

1. The Ld. CIT(A) NFAC has erred in upholding re-opening of assessment u/s 147. The re-opening is bad in law and hence the assessment be annulled.

2. The Ld. CIT(A) NFAC has erred in upholding the addition of Rs. 10,51,900/-treating it as un explained income of the assessee.

3. It was proved before the lower authorities that the assessee's family is agriculturist and owning substantial lands and has a substantial income from the agriculture which has been deposited in the bank account.

4. The addition of Rs. 10,51,900/- may please be deleted.

5. The assessee craves to amend, alter or delete any of the ground of appeal.

3. At the outset Ld. Counsel for the assessee submitted that the assessee along with his family members have 88 bigha of fully irrigated land at Gram Madavdiya, Tehsil Khachrod, District Ujjain and that they are consistently earning agriculture income from this land. Further the source of alleged cash deposit is the cash income generated from the agriculture activity carried out by the assessee as well as his family members on 88 bighas of land. Ld. Counsel for the assessee referred to the Khasra, affidavit of the assessee as well as his mother's statement recorded u/s 131 of the Act and submitted that it has been consistently stated by the assessee that main source of income of the family is mainly from agriculture activity.

4. On the other hand Ld. Departmental Representative submitted that there are so many family members in the assessee's family and jointly own agriculture land and therefore the assessee's claim of source of total alleged cash deposit is from agriculture income cannot be accepted.

5. I have heard rival contentions and perused the records placed before me.

5.1 Ground No.1 challenging the reopening proceedings is dismissed as no submissions have been made by the Ld. Counsel for the assessee and it seems that the assessee is not interested to press this legal ground. Ground No.1 is dismissed as NOT PRESSED.

5.2 As regards Ground No. 2,3 & 4 regarding addition of Rs.10,51,900/-, I notice that the assessee is an individual. Apart from income from salary earned from M/s Rajendra Sales & Services, Barnagar and income from retail business of lubricant oil

assessee also has agriculture income. Sufficient evidence are placed on record which proves that the assessee along with his family members including his mother owns 88 bighas fully irrigated land and there is regular agriculture produce which are sold in the Kisan Mandi. Copy of Khasra provides the details that the assessee along with his family members are growing soyabean, maize, pulses, grass etc. However there is no proper details of sale of agriculture produce, copies of mandi receipts and actual share of the assessee in such agriculture produce and also the expenditure incurred for the year for carrying out the agriculture activity.

5.3 So on one hand it is proved that the assessee is earning income from agriculture and on other hand the quantification of such agriculture income is not placed before us. It is also brought to my notice by the Ld. Counsel for the assessee that the major portion of the alleged cash deposited belongs to his father Late Hemraj who was not having any bank account and also his mother and brother who are also co-owners of agriculture land have no bank accounts and accumulated cash savings of the family were deposited in the bank account of the assessee.

5.4 Therefore considering the submissions of the Ld. Counsel for the assessee and affidavit of the assessee and his mother's statement recorded u/s 131 of the Act, that the assessee earned other source of income from Lubricant oil business and also being fair to both the parties and in the larger interest of justice, I am inclined to hold that out of the alleged sum of Rs. 10,51,900/- the assessee could explain the source of alleged cash deposit to the extent of Rs.7,50,000/- to my satisfaction and to this extent addition made u/s 69 of the Act for unexplained cash deposit is deleted. Remaining amount of addition of Rs.3,01,900/- is hereby confirmed. Ground No.2, 3 and 4 raised by assessee in the appeal are partly allowed. Ground No.5 is general in nature which needs no adjudication.

6. In the result appeal of the assessee is partly allowed.

Order pronounced in the open court on 09.08.2024.

Sd/-

(MANISH BORAD)
Accountant Member

Indore, 09.08.2024
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