

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

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

**आयकर अपील सं. ITA No.1601/Chny/2024**  
**(निर्धारणवर्ष / Assessment Year: 2012-13)**

<b>Shri Kolandasamy</b> Vannankadu Pudhu Valasu, Goundachipalayam(PO) Erode-638 112.	<b>बनम/</b> Vs.	<b>ITO</b> Ward-2(2), Erode.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. <b>BXKPK-5482-L</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri S. Sridhar (Advocate from Erode) - Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Ms. Kavitha (Addl.CIT)-Ld. Sr. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	29-08-2024
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	03-09-2024

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2012-13 arises out of the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 27-03-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143(3) r.w.s 147 of the Act on 23-12-2019. The grounds taken by the assessee read as under:-

1. The impugned order is bad and erroneous in law.

2. The First Appellate Authority erred in not deciding and adjudicating the admissibility or otherwise of the additional grounds of appeal raised vide Ack.No.533913151291123 with respect to unsigned notice u/s.148 and assessment order without DIN. (Copy of the additional grounds of appeal, written submissions and evidences for having filed are attached).
3. The First Appellate Authority erred in not considering the submissions made vide Ack.No.136911301010324 with respect to failure to issue notice u/s.143(2) in proper perspective.(Copy of the additional submissions and evidence for having filed for the same are attached).
4. The Assessing Officer erred in not supplying copy of the reasons recorded and erred in not following the decision by the Supreme Court in the case of GKN Drive Shafts.
5. The first Appellate Authority erred in not considering the written submissions in proper perspective.

The Ld. AR advanced arguments supporting the case of the assessee which has been controverted by Ld. Sr. DR. Having heard rival submissions and upon perusal of case records, our adjudication would be as under.

### **Assessment Proceedings**

2.1 The assessee's case was reopened and notice u/s 148 was issued on 12-03-2019. The assessee disclosed capital gains of Rs.0.41 Lacs and agricultural income of Rs.9.37 Lacs. In support, the assessee furnished VAO certificate in respect of land holdings and details of agricultural income derived by the assessee. It was submitted that the assessee's father was doing farming on ancestral property and fetched agricultural income which was accumulated and it was to be distributed to the assessee and his two children. The assessee furnished copy of unregistered will dated 06-09-2010 according to which the assessee was to receive Rs.5 Lacs whereas the balance Rs.20 Lacs was to be distributed to assessee's two children.

2.2 However, upon perusal of will, Ld. AO concluded that the will was fabricated one and executed to create source of cash deposit for the assessee. The assessee deposited cash of Rs.15.50 Lacs in his bank

account on 26-05-2011 which was after 9 months from the date of will. Accordingly, the assessee's reliance on the will was rejected.

2.3 The Ld. AO also examined the claim of agricultural income as earned by the assessee. The lands on which agricultural activities were carried out by the assessee was situated in various survey nos. The income derived as per Adangal has been tabulated by Ld. AO on Page Nos.6 & 7 of the order. The Ld. AO held that the lands were owned by grandfather of the assessee and other persons. As per Adangal, the cultivation of plant was recorded as coconut tree sugarcane, paddy and gingerly as against the submissions of assessee that the income was earned out of sale of turmeric. Further, the land was not registered in the name of the assessee and therefore, no credit thereof could be given to the assessee.

2.4 The assessee had sold certain agricultural land and computed capital gains of Rs.0.41 Lacs which was accepted by Ld. AO.

2.5 Finally, the cash deposit of Rs.15.50 Lacs was added u/s 69A whereas the agricultural income of Rs.9.37 Lacs was brought to tax as 'income from other sources'. The capital gains of Rs.0.41 Lacs were accepted to be agricultural income. The Ld. CIT(A) confirmed the stand of Ld. AO against which the assessee is in further appeal before us.

### **Our findings and Adjudication**

3. We find that the assessee has furnished unregistered will executed by his late father. According to the will, the assessee has received Rs.25 Lacs during the year which is stated to be the source of cash deposit. It could be noted that there is no requirement in law to get the will registered. There is also no requirement that it should be notarized. The will executed even on a plain paper is admissible. Once the assessee

has furnished the same and discharged the onus, the same could not be brushed aside by lower authorities without bringing concrete evidence on record to establish that the will was fabricated one. In the absence of such an exercise, the explanation of the assessee has to be accepted. Therefore, the source of cash deposit of Rs.15.50 Lacs has to be accepted. We order so.

4. Similarly, in support of earning of agricultural income, the assessee has furnished sufficient documentary evidences including Chitta and Adangal to prove that it carried out certain agricultural activity on the said land. The Ld. AO has noted that the land was registered in the name of grandfather of the assessee. The Adangal would establish that the land was under cultivation during the year. It is also noteworthy that the assessee has sold some land standing in the name of his deceased father and earned capital gains. The same has been accepted by Ld. AO. Therefore, the allegations of Ld. AO are not supported by material evidences on record. Once the initial onus has been discharged by the assessee, the onus would be on revenue to disprove the same. In the absence of such an exercise, the assessee's claim could not be rejected. Therefore, the agricultural income as returned by the assessee has to be accepted. We order so. No other ground has been urged in the appeal.

5. The appeal stand partly allowed.

*Order pronounced on 3<sup>rd</sup> September, 2024*

**Sd/-**  
**(MANU KUMAR GIRI)**  
**न्यायिक सदस्य / JUDICIAL MEMBER**

**Sd/-**  
**(MANOJ KUMAR AGGARWAL)**  
**लेखा सदस्य / ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 03-09-2024  
DS

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

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