

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.:1639/CHNY/2024
निर्धारण वर्ष/Assessment Year: 2018-19

Shri Rathinam Viswanathan,
35, Thanjavur Road,
Varaganeri,
Trichy – 620 008.

The Income Tax Officer,
vs Circle 1(1),
Trichy.

PAN: AAEPV 8545M

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Mr. Girish Kumar, Advocate
: Mr. Keerthi Narayanan, JCIT

सुनवाई की तारीख/Date of Hearing

: 04.09.2024

घोषणा की तारीख/Date of Pronouncement

: 06.09.2024

आदेश / O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Order No.ITBA/NFAC/S/250/2023-24/1060622224(1) dated 07.02.2024. The assessment was framed by the Assessing Officer, National e-Assessment Centre,

Delhi for the assessment year 2018-19 u/s.143(3) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 10.03.2021.

2. At the outset, it is noticed that this appeal is barred by limitation by 52 days. The facts of the case are that the order by CIT(A)-NFAC is dated 07.02.2024. As per Form 36, the assessee has received this order on 07.02.2024 and appeal should have been filed on or before 07.04.2024 but appeal was actually filed on 29.05.2024 and thereby, there is a delay of 52 days. The assessee filed condonation petition along with affidavit for condoning the delay of 52 days stating the reason that the appellate proceedings of the assessee was handled by the Chartered Accountant Shri Srivatsan and the NFAC order received by the office of the Chartered Accountant was misplaced by his staff at the time of shifting of their office, resulting in delay in informing the assessee about the passing of NFAC order. Later when the chartered accountant noticed the order, informed the assessee and the assessee immediately approached the counsel and appeal was filed resulting in a delay of 52 days. When this was confronted to Id.Senior-DR, he objected condoning the delay. After hearing rival

contentions and going through the condonation petition, in the interest of justice, we condone the delay and admit the appeal.

3. The only issue in this appeal of assessee is as regards to the order of CIT(A)-NFAC in restricting the disallowance of the claim of agricultural income at Rs.38,10,400/- as against disallowance made by the AO at Rs.57,96,400/- and consequently, confirmed the addition under the head 'income from other sources'. For this, assessee has raised various grounds which are argumentative, exhaustive and hence, need not be reproduced.

4. We have heard rival contentions and gone through facts and circumstances of the case. Brief facts are that the AO selected the assessee's case for limited scrutiny to verify the following two issues:-

i. Agricultural income

ii. Details of Assets and Liabilities

Accordingly, the AO called for the details of agricultural holding, documents relating to cultivation and sale of agricultural produce. The assessee before AO contended that he holds 46.25 acres of land in Varaganeri Village and 4.90 acres in Kuvalakudi Village.

Apart from these owned lands, he had lease hold lands of 18.44 acres in Varaganeri Village and 1.60 acres in Kuvalakudi Village. The assessee before AO contended that the assessee made earnest attempts to get the certificate from the respective Village Administrative Officers but due to pandemic, the efforts did not bear fruits within the time allowed but he, filed the details of land holding. The AO noted the details of agricultural land but disallowed the claim of agricultural income claimed by assessee at Rs.57,96,400/- by observing as under:-

“2.5 In absence of the requisite details called for related with the agricultural income claimed by the assessee, the genuineness of this exempt income claimed during the year could not be proved. Therefore, it is concluded that the assessee have no documentary evidences to substantiate his claim of Agricultural Income. Keeping in view of the same, agricultural income amounting to Rs.57,96,400/-is hereby disallowed and added back to income of the assessee under the head income from other sources.

Aggrieved, assessee preferred appeal before CIT(A).

5. The CIT(A) after going through the historical data and the fact that the CIT while exercising his revisional powers u/s.263 of the Act in one of the years accepted agricultural income of Rs.19.86 lakhs, the CIT(A) in his order also quantified agricultural income at Rs.19.86 lakhs and disallowed balance claim of agricultural income

of Rs.38,10,400/- and treated as 'income from other sources'. Aggrieved, assessee is in appeal before the Tribunal.

6. We noted from the facts that the assessee has given historical data for assessment years 2014-15, 2015-16, 2016-17 & 2017-18 as under:-

<i>Assessment Year</i>	<i>Agricultural income admitted</i>	<i>Agricultural income assessed</i>	<i>Order u/s.</i>
2014-15	12,50,000	12,50,000	143(3) dt 16-12-16
2015-16	10,90,927	10,90,927	143(1)
2016-17	19,86,600	19,86,600	143(3) dt 4-12-18
2017-18	50,81,650	40,65,320	143(3) dt 31-12-19

This fact is not disputed by the Revenue that the assessee was having own agricultural land or lease hold agricultural land to the extent of 71.19 acres. This is also an admitted fact that the assessment was completed on 10.03.2021, the period was failing under pandemic and as contended by assessee, that he made earnest attempts to get certificate from respective Village Administrative Officers and other documents but could not get it in the short time given. The assessee before AO as well as before CIT(A) and even now during the course of argument admitted that the assessee is cultivating plantain or banana on these lands and

derived agricultural income. It is also admitted by the assessee that the agricultural sector is unorganised and the proof for sale of crops alone were available with him but few sample bills were produced before the AO or CIT(A) because he could not obtain the entire bills. As the assessee could not produce the details like agricultural produce, expenses incurred thereof, crop grown or consequent sale bills to justify the agricultural income declared, the CIT(A) restricted the agricultural income on historical data by adopting a figure of Rs.19.86 lakhs as in assessment year 2016-17. Even the assessee has declared agricultural income in recent years and agricultural income is assessed at Rs.40,65,320/- in assessment year 2017-18 u/s.143(3) of the Act. Hence, it cannot be denied that there is substantial agricultural land holding with the assessee admeasuring 71.19 acres and assessee is regularly earning agricultural income and disclosing in the return of income and accepted by the Revenue even in scrutiny assessment. Now the question comes for quantification. Going by the land holding and the nature of produce i.e., cultivation of plantain or bananas on these lands, the assessee seems to be earning substantial income. Hence, we estimate agricultural income of the assessee at Rs.40,00,000/- and restrict the disallowance of Rs.17,96,400/-, that is to be assessed as 'income from other sources'. In term of

the above, we allow relief in part and accordingly, the appeal of the assessee is partly-allowed.

7. In the result, the appeal filed by the assessee is partly-allowed.

Order pronounced in the open court on 6th September, 2024 at Chennai.

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated 6th September, 2024

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.