

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर  
IN THE INCOME TAX APPELLATE TRIBUNAL,  
JAIPUR BENCHES, "SMC" JAIPUR

श्री संदीप गोसाई, न्यायिक सदस्य के समक्ष  
BEFORE: Hon'ble SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

आयकर अपील सं./ITA No.858/JP/2024  
निर्धारण वर्ष/Assessment Year : 2016-17

M/s. Gullu Mal Gulachi Lal Developers (P) Ltd. 395, Naroli Mansion, Sanganeri Gate, Jaipur	बनाम Vs.	The ITO Ward 5 (3) Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN/GIR No.: AADCG 9835 H		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri S.L. Poddar, Advocate  
राजस्व की ओर से / Revenue by: Smt. Monisha Choudhary, Addl. CIT-DR

सुनवाई की तारीख / Date of Hearing : 23/07/2024  
उदघोषणा की तारीख / Date of Pronouncement: 02 /09/2024

आदेश / ORDER

PER: SANDEEP GOSAIN, JM

This appeal filed by the assessee is directed against order of the Id.CIT(A),Jaipur -4 dated 06-06-2024 for the assessment year 2016-17 raising therein following grounds of appeal.

"1. Under the facts and Circumstances of the case the learned CIT(A) has erred in confirming the addition of Rs. 14,89,706/- made by the Learned Assessing Officer on account of agriculture income shown by the assessee without considering the detailed submission of the assessee.

2. Under the facts and Circumstances of the case the learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in treating the sale of chana, jaua and til for Rs. 3,52,067/- as bogus inspite of revenue authorities records and past records of the assessee.

3. Under the facts and Circumstances of the case the learned CIT(A) has erred in confirming the action of the Learned Assessing Officer in treating the sale of sarso for Rs. 11,37,639/- as undisclosed income of the company inspite of submitting the number of evidences in support of agriculture income.

2.1 All these above ground raised by the Appellant are interconnected and inter related and relates to challenging the order of Id. CIT(A) in confirming the additions made by the AO on account of Agriculture Income. Therefore I have decided to deal with all these Grounds and to adjudicate the same through the present common order.

2.2 I have heard the counsel for both the parties and I have also perused the material placed on record, judgement cited by the appellant and also the orders passed by the revenue authorities. From the records, I noticed that as per the case set up by the Appellant, it is a private limited company engaged in agriculture activities but the revenue treated the income generated by the Appellant to be non agricultural and therefore made additions of Rs.14,89,706/-. In this regard as per the facts set up by the appellant during the year under consideration, the assessee has disclosed net agricultural income of Rs. 21,15,103/- from agricultural holdings

around 100 bigha. This means that per bigha per annum agricultural income was shown at Rs. 21,151/- which is very nominal looking to the cost of agricultural products. However the AO has accepted agricultural income to the extent of Rs. 6,25,397/- and has treated the balance of Rs. 14,89,706/-. I noticed that during the assessment proceedings the AO on the basis of various report collected from different-different authorities has treated the agriculture income as non genuine by bifurcating the income shown by the assessee as genuine and non genuine.

S.N.	Particulars	Income treated non-genuine by the AO
1.	Sale of Chana, Jau and Till	3,52,067
2.	Sale of Sarson	11,37,639
	Total	14,89,706

However the AO has not accepted the sale of chana, jau and till on the ground that appellant has not cultivated these crops during the year as these were not mentioned in the Khasra girdavari but on the contrary the appellant submitted that during the year under consideration the appellant has shown Agriculture Income by way of sale of chana, jau and till on various dates to the local villagers and person. Apart from this the AO has also rejected the claim of the appellant for production of Sarso on the basis of report of Tehsildar obtained by him in earlier years that the average production of sarson in the area is approximately 12 quintal per hectare. However in this regard The Appellant has specifically submitted that the AO had

obtained a general report whereas the Appellant has well irrigated land with all facilities and therefore, his production is higher than other lands in the area. After having gone through the facts of the case, I noticed that the total production in 12.15 hectare was 452. 49 quintals and average of which is 37.24 quintal per hectare. Therefore the AO has given the benefit of 25 quintal per hectare to the appellant. But I am of the view that the production of any crop is dependent upon the fertility of the land, irrigation facilities, seeds and manure used by him. In this case more particularly since the company is only having agriculture activities and the directors are experienced in the field therefore the average production of 27. 24 in my view is not on higher side when the report of Tehsildar has reported average production of 12.15 quintals per hectare in the area. Even the production of the crops cannot be doubted specially when the appellant company has sold the crops in State Agriculture Mandi through registered dealers and the payment was also received by cheque to the Appellant. Therefore there is no reason to disallow the claim of the appellant for these agriculture produce. The evidences in this regard are also placed on paper book at page number 1 to 8 in the form of sale bills, copy of ledger account of Agriculture Income and confirmation of the persons to whom agriculture produces were sold. Moreover the appellant had also filed a detailed submissions which meets out every query and doubts of the revenue authorities as were raised vide notice dated 22.12.18. It is also a matter of common knowledge

that Tehsildar is only reporting main crops in the Girdavari report and he did not mention each and every crop grown by the Appellant. The only basis of making the additions by the revenue authorities was reports obtained from Tehsildar and state Agriculture Department, which in my view is not universally applicable and depends upon various factors like type of land irrigation facilities, soil, rain, seeds and quality of manure used by the farmer. The appellant has disclosed the Agriculture Income on the basis of various sale vouchers of sale of agriculture produce to Krishi upaj Mandi Samiti through Commission agents Laxmi Narayan & Company, Garg & Company etc. The entire agricultural produce obtained by way of crops is fully vouched and has been sold through Krishi Upaj Mandi. Therefore, the sale is beyond doubt. On the contrary, the AO has neither brought any material on record to disprove the sale vouchers nor enquiry has been conducted from the parties through whom the agricultural produce was sold. Thus any enquiry made from these parties would have disclosed the truth but this was not done by the AO. He has preferred to act on estimate and guess work. At first the AO estimated the gross agricultural produce on the basis of a report from the Tehsildar but when the same was agitated by the assessee claiming that the land owned by the assessee was more fertile and capable of yielding 50% more crops in comparison an average land as reported by the Tehsildar but he did not accept the contention of the assessee. This shows the variation on working of agricultural

income on estimate basis. Further the AO has estimated price as well yield whereas he is not a specialist for this and made an addition of Rs. 14,89,706/-. The entire action of the revenue authorities in sustaining the addition was totally based on conjectures, guess work, and Surmises, otherwise there was no reasonable cause or ground or basis to reject the income disclosed by the Appellant. In my view it is a settled preposition of law that suspicion however strong maybe but cannot take the place of evidence. In the present case the vouchers of sale cannot be rejected on the basis of suspicion and doubt and in this regard I draw strength from the decisions in the cases mentioned as under:-

- (i) Uma Charan Shaw & Brothers 37 ITR 271 (SC)
- (ii) CIT vs. Anupam Kapoor 299 ITR 179 (P&H)
- (iii) CIT vs. Dhiraj Lal Girdhari Lal 26 OTR 736
- (iv) Dhakeshwari Cotton Mills 26 ITR 775 (SC)
- (v) State vs. Gulzari Lal Tondon 1979 AIR 1382 (SC)
- (vi) J.A. Naidu vs. State of Maharastra 1979 AIR 1537 (SC)

The Other arguments raised by ld. DR are to the effect that Appellant has not shown comparison with respect to the preceeding year and has not supported his arguments with the factual details of the nature of crops grown in each season and the area under agricultural activities etc. with respect to the preceeding year. Further it was also pointed out by ld. DR that market fees is a mandatory charge and thus any sale slips claimed to have been issued without Mandi Shulk is not reported to the Mandi Samiti and is not reliable. In this regard I found that the

arguments of Id DR is totally contrary to the facts and evidences submitted by the assessee. During the assessment proceedings the assessee has submitted copy of bills of Govt. Krishi Mandi which are placed on Paper Book Page No. 1 to 25 and only Crop of Rs. 40,870/- was sold in cash out of total sales of Rs. 21,15,103/-. The payments were received through proper banking channels. Confirmations of all the parties to whom agriculture crop was sold was submitted along with complete address and PAN. The AO has doubted on genuineness of the transaction without making any enquiry from these established traders. If the AO has any doubt on genuineness of the transactions he can make enquiry in this regard but he chooses not to make any enquiry and only on the basis of doubt he make the additions which are not permissible. The present case is also covered by the decision of ITAT, Jaipur Bench in assessee's own group companies ITA No. 867/JP/2019 in the case of M/s Gulmohar Developers. Therefore taking into consideration the entire facts and circumstances of the present case and also considering the detailed examination of all the arguments raised by the respective parties I am of the considered view that the entire addition sustained by Id. CIT(A) deserves to be deleted and thus I order accordingly. Hence, all the grounds raised by the Appellant stand allowed.

3.0 In the result, the appeal of the assessee is allowed with no orders as to costs.

Order pronounced in the open court on 02 /09/2024.

Sd/-

(Sandeep Gosain)

न्यायिक सदस्य / Judicial Member

जयपुर / Jaipur

दिनांक / Dated:- 02/09/2024

\*Mishra

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. The Appellant- M/s. Gullu Mal Gulachi Lal Developers (P) Ltd. Jaipur
2. प्रत्यर्थी / The Respondent- The ITO , Ward 5 (3)-, Jaipur
3. आयकर आयुक्त / The Id CIT
4. आयकर आयुक्त(अपील) / The Id CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No. 858/JP/2024)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar