

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.1157/Bang/2024
Assessment Year : 2020-21

Shri. Neelakanth Kuntoji Basavaraj, SPL B-No.120 1 st Stage, Peenya Industrial Estate, Bengaluru – 560 058. PAN : AGSPB 4710 G	Vs.	ITO, Ward – 6(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. K. Kiran Kumar, Advocate
Revenue by	:	Shri. V. Parithivel, JCIT(DR)(ITAT), Bengaluru.

Date of hearing	:	18.09.2024
Date of Pronouncement	:	19.09.2024

ORDER

Per George George K, Vice President:

This appeal at the instance of the assessee is directed against the NFAC’s Order dated 18.11.2023, passed under section 250 of the Income Tax Act, 1961 (hereinafter called ‘the Act’). The relevant Assessment Year is 2020-21.

2. There is a delay of 148 days in filing this appeal before the Tribunal. Assessee has filed an application for condonation of delay stating therein the reasons for the belated filing of this appeal. On perusal of the reasons stated for late filing of the appeal, we are of the view that no laches can be attributed to the assessee as there is sufficient cause for belated filing of this appeal. Hence, we condone the delay and proceed to dispose off the matter on merits.

3. The grounds raised read as follows:

1. *Both the Assessment Unit and the National Faceless Appeal Centre have erred in not accepting that the sum of Rs.27,76,000 received as agricultural income.*
2. *The National Faceless Appeal Centre erred in confirming Rs.46,27,658 as income of the assessee*
3. *Although the sum found credited in the books of assessee was Rs. 27,76,000, the addition of Rs.18,51,658 (i.e.Rs.46,27,658 minus Rs.27,76,000) is unjustified.*
4. *The above grounds are without prejudice to each other*

4. Assessee, an individual, is engaged in the business of manufacturing of fabricated metal products. For the Assessment Year 2020-21, the return of income was filed under section 139(1) of the Act declaring total income of Rs.33,13,640/-. Assessee has also declared net agricultural income of Rs.27,76,000/-. The assessment was selected for limited scrutiny under CASS to examine the claim of receipt of agricultural income. During the course of assessment proceedings, the AO noticed that assessee had shown gross receipts from agricultural produce to the tune of Rs.48,54,000/- and expenditure incurred for earning the said agricultural income was shown at Rs.20,74,000/-. The AO issued several notices under section 142(1) of the Act. However, there was no response to the same by the assessee. Thereafter, show cause notice was issued to the assessee under section 144 of the Act, proposing to make an addition of the gross income of Rs.48,50,000/- as income from undisclosed source. In response to the show cause notice issued under section 144 of the Act, assessee filed online response stating assessee is directly owning 15 acres of cultivated area and also submitted some invoices for the sale of agricultural produces. Thereafter, in response to the notices issued by the AO, there was no compliance by the assessee.

The AO, on verification of the details submitted by the assessee, was of the view that assessee is owner of only 9.41 acres of agricultural land and not 15 acres as claimed by the assessee. The AO estimated the gross receipts after examining the data released by the Government of India and came to the conclusion that it is only Rs.2,22,358/- instead of the gross receipt of Rs.48,50,016/- declared by the assessee. After estimating the average rate of expenditure per acre at Rs.12,770/-, the total expenditure was arrived at Rs.1,16,207/-. The net agricultural income was thus estimated by the AO at Rs.1,06,151/- (Rs.2,22,358 – Rs.1,16,205). The AO, by reducing the gross receipts estimated by him from the gross receipt declared by the assessee arrived at Rs.46,27,658/- which was added under section 68 of the Act. For the amount added under section 68 of the Act, the AO also applied the special rate of taxation under section 115BBE of the Act. The relevant computation made by the AO reads as follows:

“The net agricultural income of the assessee is arrived as under:-

The land held by the assessee - 9.41 acre

Production of the Toor Dal in 9.41 acre @340 kg/acre (average) = 3199.4 kg

Price of 3199.4 kg Toor dal @ Rs 69.5/- per kg(average) = 2,22,358

Cost of the production in 9.41 acre @ Rs. 12,770/ acre (average cost) = Rs. 1,16,207/-

Net agriculture income= 2,22,358-1,16,207= 1,06,151/-

Gross receipt shown by the assessee from agricultural income= Rs. 48,50,016/-

Gross receipt from 9.41 acre of land (average)=2,22,358/-

Excess receipt shown by the assessee= Rs. 46,27,658/-,

In view of the above, the receipt of Rs. 46,27,658/- is added to the income of the assessee u/s 68 of the Income tax Act, 1961

(Addition u/s 68 : Rs. 46,27,658/-)”

5. Aggrieved by the Assessment Order, assessee preferred an appeal before the First Appellate Authority. The CIT(A) passed an ex-parte order since assessee did not respond to the several notices issued by the Office of the CIT(A) directing him to file the written submissions / evidences.

6. Aggrieved by the Order of the CIT(A), assessee has filed the present appeal before the Tribunal. Assessee has filed application for admission of additional evidence under Rule 29 of the Income Tax Rules, 1962. The additional evidence submitted by the assessee is affidavit of the assessee's father stating therein that he was looking after the assessee's agricultural property and had given a sum of Rs.27,76,000/- which was saved over the past three years, the RTC and Phanis of the agricultural land held by the assessee and his father is to the extent of Rs.23 acres and 34 guntas, etc. The learned AR submitted that AO has erred in stating that assessee is owner only to the extent of 9.41 acres of the land. It was submitted that assessee was owning more than 15 acres of land and about 8 acres is held by his father, the income from which the assessee was enjoying. It was further contended that assessee had disclosed only agricultural income of Rs.27,76,000/-, however, the addition made under section 68 of the Act on account of excess agricultural income is Rs.46,27,658/- which is unjustified and against the legal principles. It was submitted that assessee had produced various sales invoices which was not been properly taken note of by the AO nor the CIT(A).

7. The learned DR, on the other hand, supported the orders of the AO and the CIT(A).

8. We have heard the rival submissions and perused the material on record. Assessee in the return of income had disclosed agricultural income of

Rs.27,76,000/-. The assessment was selected for limited scrutiny under CASS to examine / verify the claim of receipt of agricultural income. The AO, after estimating the gross agricultural income from 9.41 acres of land and by reducing the gross agricultural income disclosed by the assessee, added a sum of Rs.46,27,658/- under section 68 of the Act as income from undisclosed sources.

9. Assessee had filed an application under Rule 29 of the Income Tax Appellate Tribunal Rules, 1963. Assessee had produced in vernacular the RTC, Phanis, title deeds, etc., to claim that he is enjoying agricultural income from 23 acres and 34 guntas of land. Additional evidence now filed before the Tribunal goes to the root of the issue raised before the Tribunal and we deem it appropriate to admit the same. Since we have admitted the additional evidence, it is necessary that the matter be examined by the AO [since there has been no proper representation by the assessee before the AO nor the CIT(A)]. Therefore, the AO is directed to draw a fresh assessment by taking into consideration the evidence / material produced by the assessee, to prove his case that he was in receipt of net agricultural income of Rs.27,76,000/-.

10. Before concluding, it is to be mentioned that assessee has not responded to several notices issued from the Office of the AO as well as the CIT(A). We strongly deprecate the nonchalant attitude of the assessee. As a last opportunity and in the interest of justice and equity, we are restoring the matter to the files of the AO so that a proper assessment can be framed in the case. The assessee is directed to co-operate with the AO and shall not seek unnecessary adjournment. It is ordered accordingly.

11. In the result, appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(WASEEM AHMED)
Accountant Member

Sd/-

(GEORGE GEORGE K)
Vice President

Bangalore.

Dated: 19.09.2024.

/NS/*

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|---------------|-------------------------|
| 1. Appellants | 2. Respondent |
| 3. DRP | 4. CIT |
| 5. CIT(A) | 6. DR, ITAT, Bangalore. |
| 7. Guard file | |

By order

Assistant Registrar,
ITAT, Bangalore.