

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "SMC" Bench, Mumbai.

Before Shri Narendra Kumar Choudhry (JM)
& Shri Omkareshwar Chidara (AM)

I.T.A. No. 595/Mum/2024 (A.Y. 2012-13)

Indrapal Babulal Yadav A-002, Himalaya Darshan Building, Din Dayal Road Dombivali West Thane-421 202. PAN : AGFPY4203Q (Appellant)	Vs.	CIT(A)/ITO Ward 3(2) Kalyan Thane-421 301. (Respondent)
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Assessee by	Ms. Mamta Khuliya
Department by	Shri R.R. Makwana
Date of Hearing	13.08.2024
Date of Pronouncement	22.10.2024

O R D E R

Per Omkareshwar Chidara (AM) :-

In the above cited appeal, facts are as follows :

- i) The appellant has deposited cash to the tune of Rs. 18,98,500/- and claimed Rs. 6,82,970/- as Agricultural Income. The learned Assessing Officer (AO for short) in his assessment order has mentioned that the appellant could not explain source of above cash deposits and also details of income from agriculture and hence made additions on both counts while finalising the assessment. During the assessment proceedings, the Ld. AO found that the appellant is having source of income only from salary and other sources and hence the appellant was issued a show-cause notice requesting the appellant to explain source of cash deposits of Rs. 19,98,500/- in his saving bank account in Abhyudaya Cooperative Bank. The appellant was asked to explain the source of funds utilised for making deposits in the bank accounts mentioned alongwith supporting documentary evidence and appellant was also asked to furnish copy of bank statement of Abhyudaya Cooperative Bank

from 1.4.2010 to 31.3.2011. In the same show-cause notice, the appellant was asked to show proof of agricultural income alongwith documents such as land details, 7/12 extracts, purchase bills of seeds, pesticides, fertilizers sale bills, labour charges details etc. to justify agricultural income shown in the return of income. It was mentioned that in case of non-compliance, income shown under 'agricultural income' will be treated under the head "other sources" and accordingly it would be added to the total income in the year under consideration. In pursuance to this notice issued by the Ld. AO, Smt. Anjuja Abhay More, CA has attended and submitted only a copy of "Kisan Bahi" and that copy is not clear and the Ld. AR of the appellant expressed her inability to produce the bills and vouchers to substantiate the claim of agricultural income. Ld. AR of the appellant also could not produce any documentary evidence regarding source of cash deposits in his bank account. Hence, vide order sheet dated 5.11.2018, Smt. More, CA (Ld. AR of the appellant) agreed for the addition which is mentioned in the scanned copy of the order sheet dated 5.11.2018, which was reproduced by the Ld. AO in the assessment order and the cash deposits of Rs. 18,98,500/- were treated as unexplained money under section 69A of the Act and the same were added to the total income of the appellant. Similarly as no evidence was produced with regard to the exempt agricultural income, the Ld. AO treated the claim of agricultural income of Rs. 6,82,970/- as income from other sources while completing the assessment. Thus, the Ld. AO made two additions to the returned income viz., first addition under section 69A relating to cash deposits made in to the bank account and the second claim of agricultural income.

ii) After admitting the cash deposits as income by Ld. AR of the appellant, an appeal was filed before the learned Commissioner of Income Tax (Appeals) [the Ld. CIT(A) for short] stating that the cash deposits made by him into the bank account cannot be treated as unexplained money under section 69A of the Act because he has deposited cash out of cash on hand with him in earlier years and out of agricultural income earned over a period of time. The

appellant has also claimed that the details of agricultural income are not available does not mean that there is no agricultural income and stand of the Ld. AO is incorrect while making the additions. The Ld. CIT(A) has passed a very detailed order confirming the additions made by the Ld. AO because Ld AR of the appellant has admitted before the Ld. AO for making additions and now retracted without giving any cogent reason. The Ld. CIT(A) has mentioned that the Ld. AO has scanned copy of screen-shot of the order sheet where the Ld. AR of the appellant has agreed for making this addition. Moreover simply filing of Kisan Bahi without giving any evidence of agricultural income will not prove the case of the appellant because no receipt in respect of sale of agriculture produce in APMC market or any Mandi was produced before him. It was also held that the appellant has filed the return of income only for A.Y. 2012-13 and he has never filed any return of income so his explanation of earlier years savings and earlier agricultural income were not accepted by the Ld. CIT(A) specially when the only source of salary income, which is below Rs. 2 lakhs. Moreover, the Ld. AR of the appellant has accepted for the addition taking all these circumstances into consideration, the Ld. CIT(A) has confirmed the addition made by the Ld. AO.

3. Aggrieved by the orders of the Ld. AO and the Ld. CIT(A), the appellant has filed another appeal before the ITAT repeating almost similar grounds. In the grounds of the appeal filed before the Tribunal, Ld. AR of the appellant relied on certain cases law of Mumbai Tribunal and Chennai Tribunal and argued that there are no unexplained deposits in the bank account and whatever deposits were made are out of from past savings or from the loans taken from the relatives etc. Ld. AR of the appellant has requested the Bench to give one more opportunity to produce details of cash deposits and agricultural income.

4. The Ld. DR has argued that the appellant has never given any explanation with regard to cash deposits and the agricultural income before the Ld. AO or before the Ld. CIT(A). In fact the Ld. AR of the appellant has

admitted before the Ld. AO that cash deposits may be treated as his income before the Ld. AO and the copy of the order sheet scanned and attached to the assessment order by the Ld. AO. Ld. DR has also argued that since no explanation was given before any authorities right from the Ld. AO to the ITAT, addition made by the Ld. AO should be confirmed.

5. Heard both sides. From the orders of Ld. AO and the Ld. CIT(A), it is observed that the Revenue did everything as per law like giving opportunity to the appellant and in fact the Ld. AR of the appellant has agreed for the addition of cash deposits and agricultural income. But, without giving any cogent and logical reasoning, the appellant retracted from the statement given by the Ld. AR of appellant. As the Ld. AR of the appellant made a fervent appeal before the Bench that he is a small employee and his salary income is below Rs. 2 lakhs per annum, and requested for one final opportunity to explain the sources of cash deposits and evidences for agricultural income, lenient view is taken and it was decided that one final opportunity is given to the appellant to produce all the details relating to cash deposits and agricultural income and accordingly the matter is remitted to the file of the Ld. CIT(A). The Ld. CIT(A) is directed to take into consideration all the submissions and material and pass an appeal order in accordance with law.

6. The appeal of the appellant is allowed for statistical purposes.

Order pronounced in the open court on 22nd October, 2024.

Sd/-
(Narender Kumar Choudhry)
Judicial Member

Sd/-
(Omkareshwar Chidara)
Accountant Member

Mumbai : 22.10.2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent

3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai