

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : Bengaluru**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER

ITA No.1693/Bang/2024
Assessment year : 2016-17

Vitlapura Kalleshappa Revanasiddappa, S/o. K. Sikarappa, Vitlapura Village, Neralakere Post, Tarikere Taluk. Chikamagalore. 577 228. <b>PAN: BWDPR 5633L</b>	Vs.	The Income Tax Officer, Ward 1, Chikmagalur.
APPELLANT		RESPONDENT

Appellant by	:	Ms. Sreeraksha, CA
Respondent by	:	Shri Ganesh R. Gale, Standing Counsel for Dept.

Date of hearing	:	13.11.2024
Date of Pronouncement	:	22.11.2024

**ORDER**

*Per Prashant Maharishi, Vice President*

1. This appeal is filed by Shri Vitlapura Kalleshappa Revanasiddappa (the assessee/appellant) for the assessment year 2016-17 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [Id. CIT(Appeals)] dated 04.7.2024 wherein the appeal filed by assessee against the reassessment order passed u/s. 143(3) r.w.s.

147 of the Income-tax Act, 1961 (the Act) on 13.2.2024, was dismissed.

2. The assessee is aggrieved with the same and has raised the following grounds of appeal :-

“1. That the order of the Commissioner of Income Tax (Appeals) in so far is prejudicial to the interests of the appellant is bad and erroneous on the facts and circumstances of the case.

2. The Appellant denies being assessed on a total income of Rs. 35,00,000/- as determined by learned Assessing Officer and confirmed by learned Commissioner of Income tax (Appeals) as against the correct return of income of Rs. Nil'- on the facts and circumstances of the case.

3. That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in confirming the addition of. Rs. 30,00,000/- u/s 69A of the Act without taking into consideration the submissions made by the appellant.

4. That the learned Revenue Authorities erred in making additions tils 69A of the Act without appreciating the documents and the explanations placed on records with respect to cash collections made during the financial year 2015-16 relevant to Assessment year 2016-17 and erroneously confirming the additions of Section 69A of the Act.

5. That the learned Revenue Authorities grossly failed to appreciate the fact that the provision of Section 69A of the Act is not applicable due to non applicability of the said provision in the present case.

6. The learned Commissioner of Income Tax (Appeals) erred in confirming the provisions of Sections 69 of the Act and erroneously making additions of Rs. 5,00,000/- as unexplained cash credit despite the explanation provided by the Appellant on the source of such credits.

7. That the learned Commissioner of Income Tax (Appeal) erred in law and facts in confirming the additions without considering the

submissions made by the appellant stating that the deposits made are out of agricultural proceeds.

8. That the learned Commissioner of Income Tax (Appeal) erred in law and on facts in stating that the appellant failed to adduce the basic evidence supporting his claim even though the appellant had submitted the necessary documents in support of grounds of appeal.

Each of the above grounds is without prejudice to one another, the appellant seeks the leave of the Hon'ble Income Tax Appellate Tribunal Bangalore to add, delete, modify or otherwise amend or otherwise modify one or more of the above grounds either before or at the time of hearing of this appeal.”

3. The brief facts of the case show that assessee has not filed his return of income for AY 2016-17, however, information was available with the Id. AO that assessee has deposited cash of Rs.1,29,46,500 in the bank account maintained by him with Cauvery Grameen Bank. Therefore notice u/s. 148A(b) was issued to assessee resulting into an order u/s. 148A(d) of the Act on 29.3.2023. Assessee was given several opportunities during the course of hearing where part details were submitted. Assessee submitted that cash deposit of Rs.1,29,46,500 is part of circular transaction where the amount was withdrawn and subsequently deposited in bank account which ultimately resulted into fixed deposit receipt which was pledged with the bank for obtaining loan. The assessee submitted that all these activities were done as per guidance of the Bank Manager. Assessee submitted that he is also an agriculturist and submitted his bank account, land records, cash book and fixed deposit receipts. On verification of details, Assessee was asked to submit further details, mainly of Rs.20 lakhs which was shown by assessee as opening cash

on hand at the beginning of the previous year. The AO also questioned that assessee is having agricultural land admeasuring 6.25 acres and has shown agricultural income of Rs.22 lakhs against which agricultural expenses of only Rs.2 lakhs have been incurred resulting into net agricultural income of Rs.20 lakhs. It was further found that assessee has received a sum of Rs.5 lakhs from M/s. V.N. Enterprises for which necessary details were asked for.

4. Assessee submitted that opening cash in hand of Rs.20 lakhs is out of his personal savings and agricultural income for earlier years. It was further stated that assessee does not have any other source of income other than agricultural income. With respect to agricultural records, assessee submitted that Form J is not applicable and not available and sale of agricultural produce is in the market. With respect to sum of Rs.5 lakhs received from M/s. V.N. Enterprises, assessee submitted that it was a short-term loan which was repaid but could not be repaid. Assessee was not able to produce any evidence as transaction was very low. Weith respect to agricultural expenses assessee gave the details of realization of agricultural produce and estimated net income as per acreage of land.
5. The Id. AO did not believe that assessee has opening balance of Rs.20 lakhs generated out of his personal savings and agricultural income of earlier years, the main reason being that a prudent person keeps cash in his bank account and further assessee has obtained cash credit limit on which interest is charged. Thus, addition of Rs.20 lakhs was made

on account of unexplained money u/s. 69A of the Act. The Id. AO further noted that looking at the agricultural produced sold by assessee, assessee should be incurring an expenditure of Rs.10 lakhs as agricultural expenditure, therefore agricultural income shown by assessee of Rs.20 lakhs is not proper and therefore he made an addition of Rs.10 lakhs as undisclosed income u/s. 69A of the Act. The sum of Rs.5 lakhs received from M/s. V.N. Enterprises could not be substantiated by assessee and therefore same was added to total income of assessee u/s. 69 of the Act. Accordingly reassessment order u/s. 143(3) r.w.s. 147 was passed on 13.2.2024 computing total income of assessee at Rs.35 lakhs.

6. Aggrieved with the reassessment order, assessee preferred appeal before the Id. CIT(A), wherein addition of Rs.20 lakhs on account of opening balance available with assessee not accepted, so confirmed. Addition of Rs. 10 lakhs towards agricultural expenditure was also confirmed. This is so as the assessee could not produce the bill vouchers and other details justifying the expenditure made for earning agricultural income. Addition of Rs.5 lakhs was also confirmed as assessee failed to establish the identity, genuineness and creditworthiness of the M/s V N Enterprises and also did not file any confirmation letter. Accordingly appellate order was passed dismissing appeal of assessee on 4.7.2024. The assessee is aggrieved with the same and is in appeal before us.

7. Assessee at the time of hearing filed a request for adjournment because assessee did not get proper opportunity of hearing before lower authorities, and it was also requested in the open court that if the proper opportunity is granted the addition will not sustain.
8. The Id. AR vehemently submitted that addition of Rs.35 lakhs made by the Id. AO denying benefit of opening cash balance and further making addition of Rs.10 lakhs on account of agricultural income is not correct. It was further stated that with respect to a sum of Rs.5 lakhs received from M/s. V.N. Enterprises, it was out of agricultural proceeds.
9. The Id. DR vehemently supported the orders of Id. lower authorities. It was submitted that assessee has failed to produce evidence of agricultural expenses and also holding of cash in hand and therefore the additions deserve to be confirmed.
10. We have considered the rival contentions and perused the orders of Id. lower authorities. The facts suggest that assessee is a non-filer who is found to have deposited a sum of Rs.1,29,46,500 in bank account maintained with Cauvery Grameen Bank. Assessee justified the deposit of above sum by submitting the cash flow statement. In the total cash flow statement, assessee has claimed Rs 20 lakhs as opening cash in hand available with assessee out of his savings of agricultural income of earlier years. The Id. lower authorities did not believe that assessee could have kept such a huge sum in cash when assessee was having a cash credit account with agricultural activities.

The findings of the Id. lower authorities clearly show that they have accepted that assessee is an agriculturist. It is also an admitted fact that assessee is having agricultural land for agricultural activities. In the other addition of Rs.10 lakhs made by the Id. AO, he himself has accepted in para 5 of the assessment order that assessee is showing lesser agricultural expenditure. In fact, the Id. AO accepted the sale proceeds of Rs. 22 lakhs for this year, but estimated that assessee should have incurred expenditure of Rs.10 lakhs to earn agricultural income of Rs. 22 lakhs. Therefore, admittedly, the Id. lower authorities have accepted that assessee is having agricultural income of at least Rs.10 lakhs for this year. Therefore without any contrary evidence, looking to the facts of accepting substantial agricultural income this year, assessee could not have been denied benefit of opening cash in hand available out of agricultural income of earlier years. Merely denying the credit of opening cash in hand for the reason that a prudent person who is having cash credit account could not have kept such a huge cash at house is not a valid reason. It is the assessee's prerogative to keep money in cash at home or in his bank account. On this ground, this addition could not have been made. The Id. CIT(A) while confirming the order of the Id. AO, has also merely reiterated the findings of the AO without giving his own finding that why assessee could not have cash in hand out of his agricultural income for earlier years, when he is accepted as an agriculturist holding agricultural land.

11. Further, with respect to addition of expenditure of Rs.10 lakhs to earn agricultural income of Rs. 22 lakhs, is merely an estimate made by the AO. Assessee says that net income of Rs.20 lakhs represents agricultural income after deducting the expenses of Rs 2 lakhs. The Id. AO in absence of any voucher etc., has assumed that assessee should have incurred expenditure of Rs.10 lakhs. There is no basis given by the AO for considering 50% of agricultural income as expenditure to be incurred for earning that income. The assessee has given the basis that he has sold Arecanuts @ Rs.32,000 per quintal considering the yield of 10 quintals per acre. As there is no basis available with assessee of agricultural expenditure and further the agricultural expenditure estimated by the AO are also not on any sound logic or evidences, we restore ground No.3 of appeal of assessee back to the file of Id. AO with a direction to the assessee to substantiate the details of agricultural income earned by him in earlier years as well as the amount of expenditure incurred for agricultural activities for this year before the Id. AO. The Id. AO may examine the same and then decide the issue afresh in accordance with law.

12. Ground No.6 is with respect to addition of Rs.5 lakhs which was earlier stated to be received from M/s. V.N. Enterprises, now it is stated to be the deposits made out of agricultural produce. Therefore, this ground is also related with ground No.3 of the appeal, which has been restored back to the file of Id. AO. Therefore, in the interest of justice, this ground is also restored back to the file of Id. AO with a

direction to the assessee to substantiate his claim. Accordingly ground Nos. 3 & 6 of the appeal are allowed with above directions.

13. All other grounds of appeal are supporting ground Nos. 3 & 6 of the appeal and therefore those are also allowed accordingly.

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

Pronounced in the open court on this 22<sup>nd</sup> day of November, 2024.

Sd/-

( KESHAV DUBEY )  
JUDICIAL MEMBER

Sd/-

( PRASHANT MAHARISHI )  
VICE PRESIDENT

Bengaluru,  
Dated, the 22<sup>nd</sup> November 2024.

*/Desai S Murthy /*

Copy to:

1. Appellant
2. Respondent
3. Pr. CIT
4. CIT(A)
5. DR, ITAT, Bengaluru.

By order

Assistant Registrar  
ITAT, Bengaluru.