

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, "B-Bench" JAIPUR

श्री गगन गोयल, लेखा सदस्य एवं श्री नरेन्द्र कुमार, न्यायिक सदस्य के समक्ष
BEFORE: SHRI GAGAN GOYAL, AM & SHRI NARINDER KUMAR, JM

आयकर अपील सं./ITA No. 889/JPR/2018
निर्धारणवर्ष / Assessment Year : 2007-08

Sh. Bansilal S/o Sh. Ram Rakh, Village- Nayagaon, AHIRAN, District Kota.	बनाम Vs.	Income Tax Office Ward-2(4), Kota.
स्थायीलेखा सं./जीआईआर सं./PAN/GIR No.: AEWPL6949P		
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओरसे / Assessee by : None
राजस्व की ओरसे / Revenue by: Shri Anup Singh (Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 17/12/2024
उदघोषणा की तारीख / Date of Pronouncement: 18/12/2024

आदेश / ORDER

PER: NARINDER KUMAR, JUDICIAL MEMBER .

Present appeal came to be presented on 17.07.2018 while challenging order dated 09.04.2018 passed by learned Commissioner of Income Tax (Appeals), Kota.

Vide impugned order, learned CIT(A) has dismissed the appeal filed by the assessee and uphold two additions made by the Assessing Officer,

while calculating total income of the assessee, vide assessment order dated 22.12.2016 as regards the assessment year 2007-08.

The Assessing officer computed total income of the assessee at Rs. 17,01,386/-.

2. It may be mentioned here that earlier this appeal was decided ex-parte, vide order dated 11.12.2018. As regards said order, the assessee-appellant filed MA no. 19/JP/2021. On 02.09.2024 said miscellaneous application was allowed and the appeal was restored to its original number. That is how, the appeal came to be listed for hearing.

Even after restoration of the appeal to its original number, the appellant has not appeared. On the previous date i.e. 12.12.2024, telephonically, Ld. AR for the assessee requested for adjournment. Accordingly, by way of last opportunity, the appeal was listed for today.

However, even today, none on behalf of the appellant has responded to the calls. Accordingly, the appellant has been proceeded ex-parte.

3. Ld. DR for the department has advanced arguments on merits.

1st addition

4. As noticed above, matter pertains to assessment year 2007-08. Vide impugned assessment order, the Assessing Authority made two additions, as regards an addition of Rs. 8,70,000/-, amount found to have been

deposited by the assessee on 23.05.2006 in his account, with Bank of India, Arjunpura, Kota. The Assessing Officer observed that the assessee had failed to prove the said income.

As regards, another sum of Rs. 8,13,000/- found to have been deposited by the appellant in the same account with Bank of India, Arjunpura, Kota, by the assessee, the Assessing Officer observed that the assessee had failed to disclosed source of the said income as well.

Assessee also failed to disclose source of another sum of Rs. 16,000/- (out of total sum of Rs. 60,000/-) despite opportunities.

2nd addition

5. So far as second addition of Rs. 2,386/- is concerned, the Assessing Officer observed that the said amount was credited to the account of the assessee by the above said bank, by way of interest, but the assessee did not disclose said income while furnishing income tax return.

6. As mentioned above, when the matter came up before Learned CIT(A), finding no merit in the said appeal on any of the grounds raised therein, the same was dismissed, while upholding the assessment order in toto.

7. Ld. DR for the department has submitted that he stands by the reasons and findings recorded by Learned CIT(A), and in the assessment order.

Further, it has been submitted that since the assessee-appellant failed to disclose source of the income of Rs. 8,70,000/-, Rs. 8,13,000/- and 16,000/-, there is no merit in this appeal.

Even as regards addition of Rs. 2,386/-, Ld. DR has submitted that since the assessee failed to reflect said income in his ITR, Learned CIT(A) has rightly upheld the said addition made by the Assessing officer.

8. As is available from the record on 24.07.2009 a notice u/s 148 of the Income Tax Act was issued, but the assessee did not submit any response thereto. Accordingly, assessment order dated 16.12.2010 was passed u/s 147 r.w.s. 144 of the Act, computing the total income of the assessee at Rs. 21,55,390/-.

At that time, Learned CIT(A) granted relief of Rs. 13,73,000/- to the assessee. The department challenged the decision by CIT(A).

As is available from the impugned order, when the appeal filed by the department, came up before Appellate Tribunal, it was submitted that certain additional evidence was considered by Learned CIT(A), without providing opportunity to the assessee.

Appreciating said contention raised before Appellate Tribunal, the matter was remanded to the Assessing Officer in the manner indicated therein. That is how, the Assessing Officer passed fresh assessment order in respect of the above said amount of Rs. 21,53,000/-.

9. It is available from the assessment order and also from the impugned order that as regards a sum of Rs. 21,53,000/-, the assessee-appellant was examined u/s 131 of the Act.

In said statement, in response to question No. 3, the assessee submitted that in the financial year 2006-07, his main source of income was agriculture.

In response to question No. 4, the assessee submitted that in the said financial year, he had sold 18 bighas of agricultural land for Rs. 4,50,000/-, and further that from the said income - sale consideration, 9 bighas of agricultural land was purchased in the name of his wife Smt. Mohani Bai, in village Amarpura, and 5 bighas of agricultural land in village Amarpura, in the name of wife of his nephew.

Question No. 5 pertained to source of income of Rs. 21,53,000/- found to have been deposited by the assessee in his bank account with Bank of India during same financial year, on 5 different dates.

In response thereto, the assessee disclosed that a sum of Rs. 9,00,000/- was deposited by him in the said bank account on 23.05.2006 from agricultural land. However, the assessee could not furnish any explanation as to why he had kept at home such heavy amount of Rs. 9,00,000/-.

On behalf of the assessee, it was represented to the Assessing Officer that the assessee was earning about Rs. 1,00,000/- per year accordingly, However, the Assessing Officer observed that no evidence in this regard was produced.

The Assessing Officer rightly rejected the above said plea put forth by the assessee by observing that when the assessee was having a bank account, why would have he preferred to keep said amount from the savings of last many years, at home, instead of depositing with the same bank.

10. It is available from the assessment order that the authorized representative/CA of the assessee had presented before the Assessing Officer, cash flow and previous balance sheet, but the assessee failed to establish source of said income.

Accordingly, the Assessing Officer rightly did not rely on the said two documents, particularly when said income was never reflected in any

computation of income presented earlier and rejected said documents u/s 145(3) of the Act.

11. The Assessing Officer then proceeded to deal with the averment of the assessee regarding sale of land to Shri Fakhrudeen for a sum of Rs. 4,50,000/-, while sale deed dated 02.06.2006.

The Assessing Officer mentioned in the assessment order to have joined the said buyer in the inquiry conducted during assessment proceedings.

Question No. 9 in the statement recorded under section 131 of the Act pertained to purchase of 14 bigha of land from Shri Jamuna Lal Sharma for a sum of Rs. 5,50,000/-. In response thereto, the assessee had claimed before the Assessing Officer that he had paid a sum of Rs. 5,50,000/- to Shri Jamuna Lal Sharma after borrowing same from the above said Shri Fakharudeen. But, Shri Fakharudeen denied to have even any such loan to the assessee.

Even otherwise, the above said amount at Rs. 9,00,000/- was found to have been deposited by the assessee in his bank account on 23.05.2006. All this led the Assessing Officer to disbelieve, and rightly so, the claim put forth by the assessee in this regard.

The Assessing Officer also referred to certain payments made by the assessee to Shri Rakesh Dadhichi on 24.05.2006 by way of cheque. On 23.03.2006, the assessee was found to have withdrawn from his account only a sum of Rs. 30,000/-. Accordingly, the Assessing Officer rightly considered said amount of Rs. 30,000/- only and held that the assessee had proved source of this much amount.

Resultantly, the Assessing Officer was justified in arriving at the conclusion that the assessee had failed to prove source of income of Rs. Balance amount of 8,70,000/- as disclosed above.

12. It may be mentioned here when matter came up before Learned CIT(A), the assessee did not furnish any satisfactory evidence regarding source of the above said income.

In view of the material available on record, Learned CIT(A) rightly observed that since no income from the agricultural was established, there was no merit in the claim of the appellant recording the source of deposit of Rs. 9,00,000/- on 23.05.2006.

As regards cheque stated to have been given to Shri Rakesh Dadhichi, named above, Learned CIT(A) observed that the assessee had failed to lead any evidence in this regard, in the form of any confirmation from Shri Rakesh Dadhichi or any other material regarding payment

through banking channels. Ld. CIT(A) was justified in making said observations.

13. So far as a sum of Rs. 60,000/- was found to have been deposited in the bank account of the assessee is concerned, the Assessing officer had accepted the claim of the assessee as regards a sum of Rs. 44,000/-.

As claimed by the assessee, he had advanced loan of Rs. 44,000/- to Shri Pappu on 04.07.2006 and further that the said loan amount was repaid by Shri Papu to the assessee in cash in July, 2006.

The factum of issuance of cheque at Rs. 44,000/- was found to have supported the case of the assessee. However, the assessee failed to establish deposit of balance amount of Rs. 16,000/- in his bank account on 24.07.2006.

We do not find any reason to discard said findings recorded by the authorities below.

2nd addition

14. So far as income by way of interest, which accrued to the assessee in the year under consideration, Learned CIT(A) rightly observed that the said income was consequence of accrual on the undisclosed cash deposited by the assessee in the bank account.

We do not find any material on record, from the side of the assessee, which may go to justify the claim put forth by the assessee regarding this addition as well.

Result

15. As a result of the above discussion, when there is no merit in the claim of the appellant, this appeal deserves to be dismissed. Consequently the appeal is hereby dismissed and the impugned order upholding the assessment order is sustained.

File consignment to the record room after the needful is done by the office.

Order pronounced in the open court on 18/12/2024.

Sd/-
(गगन गोयल)
(GAGAN GOYAL)
लेखा सदस्य / Accountant Member
जयपुर / Jaipur

Sd/-
(नरेन्द्र कुमार)
(NARINDER KUMAR)
न्यायिक सदस्य / Judicial Member

दिनांक / Dated:- 18/12/2024

*Santosh

आदेश की प्रतिलिपिअग्रेषित / Copy of the order forwarded to:

1. The Appellant- Sh. Bansilal, Kota.
2. प्रत्यर्थी / The Respondent- ITO, Ward-2(4), Kota.
3. आयकरआयुक्त / The Id CIT
4. विभागीय प्रतिनिधि, आयकरअपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
5. गार्डफाईल / Guard File ITA No. 889/JPR/2018)

आदेशानुसार / By order,

सहायक पंजीकार / Asstt. Registrar