

**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "B", PUNE**

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER**

**ITA No.2878/PUN/2024
Assessment year : 2017-18**

VTP Foods VTP House, Plot No 3, 4 and 5, Sr. No.34A/6, Behind Shakti Sports, Nagar Road, Wadgaonsheri, Pune – 411014	Vs.	ITO, Ward 7(3), Pune
PAN: AACAV1580B		
(Appellant)		(Respondent)

Assessee by : Shri Nikhil S Pathak
Department by : Shri Arvind Desai, Addl CIT DR
Date of hearing : 26-03-2025
Date of pronouncement : 30-04-2025

ORDER

PER R. K. PANDA, VP :

This appeal filed by the assessee is directed against the order dated 01.08.2023 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2017-18.

2. There is a delay of 519 days in filing of this appeal before the Tribunal for which the assessee has filed a condonation application along with an affidavit explaining the reasons for such delay which is due to non receipt of the order in the given e-mail ID. Referring to the contents of the condonation application along with an affidavit, the Ld. Counsel for the assessee submitted that only after the demand notice was received by the assessee on 09.12.2024 from the Income Tax Officer, Ward 7(3), Pune regarding the demand payable for the assessment year

that the assessee checked the income tax portal and came to know that the order has already been passed by the Ld. CIT(A), the assessee thereafter took prompt action for filing of the appeal before the Tribunal. Referring to the decision of Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji & Ors. reported in 167 ITR 471 (SC), the Ld. Counsel for the assessee submitted that the delay should be condoned. Referring to the decision of the Coordinate Bench of the Tribunal in the case of Uddhav Dattu Marathe HUF vs. ITO vide ITA No.1514/PUN/2024 for assessment year 2016-17, order dated 17.12.2024, he submitted that under identical circumstances, the Tribunal has condoned the delay in filing of the appeal on account of receipt of such order in the wrong e-mail ID.

3. The Ld. DR heavily relied opposed the condonation application filed by the assessee.

4. We have heard the rival arguments of both sides on the issue of condonation of delay. There is no dispute about the fact that there is a delay of 519 days in filing of the appeal before the Tribunal. It is the contention of the Ld. Counsel for the assessee that due to non-receipt of the order of the Ld. CIT(A) in the correct e-mail ID, the assessee was not aware of any such order passed by the Ld. CIT(A) and only when the demand notice came then the assessee verified the portal of the department and came to know of such order.

5. We find the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji & Ors. (supra) has held that when substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties. Respectfully following the decision of the Hon'ble Supreme Court in the case of Collector, Land Acquisition vs. Mst. Katiji & Ors. (supra), the delay in filing of the appeal is condoned and the appeal is admitted for adjudication.

6. Facts of the case, in brief, are that the assessee is an AOP and engaged in agricultural activities. It filed its return of income on 20.10.2017 declaring Nil income. The case was selected for complete scrutiny under the norms of CASS. Accordingly statutory notices u/s 143(2) and 142(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') were issued and served on the assessee in response to which the AR of the assessee appeared before the Assessing Officer and filed the requisite details from time to time.

7. During the course of assessment proceedings the Assessing Officer noted that the assessee has claimed agricultural receipt of Rs.81,52,475/- and expenditure of Rs.83,33,934/-. Further, the assessee has made one time cash deposit of

Rs.50,99,000/- on 18.11.2016 in its bank account No.2301/3194 maintained with Janata Sahakari Bank Ltd., Bhavani Peth Branch, Pune. The Assessing Officer asked the assessee to explain the source of cash deposit of Rs.50,99,000/- on 18.11.2016. The assessee, in response to the same submitted that the cash deposits were made out of collection from sale of agricultural produces. The Assessing Officer thereafter asked the assessee to provide the details of agricultural receipts by producing the following:

- i. Details of land as under*
- ii. Explain the method, conditions of land transfer to firm for cultivation.*
- iii. Details of crop cultivated as under*
- iv. Provide month wise sales of crop as under.*
- v. Provide cash book for the year 2016-17*
- vi. Provide the names and complete address of the retail outlets. (Owned by firm and franchises)*
- vii. Provide the ledger of packing material purchased*
- viii. Provide the details of vehicles/ name and address of transporter for vehicles used for transporting the crops to market, outlets/customers.*
- ix. Proof of having sold the agricultural product in the market.*
- x. Proof of having grown the agricultural product directly from any land used for agriculture purpose.*

8. According to the Assessing Officer, the details provided by the assessee do not commensurate with its claim of agricultural income and cash deposits. He therefore, asked the assessee to explain as to why an amount of Rs.50,99,000/- should not be brought to tax within the meaning of section 69A of the Act and also to explain as to why an amount of Rs.30,53,475/- should not be treated as 'Income

from other sources'. The relevant show cause notice issued by the Assessing Officer reads as under:

"You have provided 7/12 extract in the name of the partner's of the firm. The 7/12 was not on the name of the firm. The 7/12 extract is the real time record of land and crops maintained by the revenue department. The Talathi as per his visits and information collected from other revenue workers made entries on 7/12. Further as per the 7/12 extract the entire land was non-irrigated land, and conversely you have claimed to be an irrigated land. Further as per the 7/12 the crop's cultivated shown are Bajari, hulga, mataki, sitaphal etc. All these crops are non irrigated crops. However, you have claimed irrigated crops grown ie. vegetables and fruits cultivated from the land. Thus, your claim of cultivation of irrigated crops is not commensurate with the land record of revenue

You have claimed that crops like lady finger, cluster been, tomato, brinjal, papaya, lemon grass leaves, spinach, Green Zucchini, basil etc were produced. You were specifically requested to provide the crop wise area cultivated, Quantity of crop produced/yield, Period of sale made, Quantity of crop sold etc. However you failed to provide the same. Therefore your claim that the above crops were cultivated is not acceptable.

You were specifically requested to provide the quantitative details of crops produced. However, you failed to provide the same. You have also failed to produce the sales bills of crops, Pattis, bills issued by purchasers, cess receipt of market committees. It was submitted that the agricultural products sold on local market. However the names and complete address of the purchasers not provided. As stated by you the firm is doing producing of quality organic agri. products and sold at VTP foods retail outlets placed in malls. However no evidences regarding the same i.e. agreements with malls, rent agreements, details of good transportation etc are provided. Further the evidences of expenses for grading, packing, and sales at retail outlets have not been provided. Therefore your claim of sale of agri, products is improper.

8 You have provided copies of few bills of expenses for agricultural activities. On verification of the bills of expenses it is seen that most of the expenses have been Incurred towards development of land ie. leveling, dumping etc for the period of August 2016 to March-2017. It is thus noted that these expenses have been incurred towards non agricultural activities and not on cultivation.

8.1. Further you have claimed that the land was handed over to VTP Food which was under cultivation for agriculture. However on verification of return of income of the land owners for A.Y 2015-16, 2016-17 & 2017-18 it is seen that they have not shown any agricultural income any of the year. This clearly shows that the land was not under cultivation. Thus you have been failed to establish that the land was under cultivation and the so called crops were cultivated and sold in cash.

10. Cash deposits in bank on 18.11.2016 You have opened bank account in Janata Sahakari Bank, Bhavani Peth, Branch on 18.06.2016. The total credit in this account from 18.06.2016 to 27.11.2016 is Rs. 1,28, 45,773/- The same includes one time cash deposits of Rs. 50,99,000/- made on 18.11.2016 during demonetization and receipt from the partners. You have deposited cash of Rs.3000/- from 18.06.2016 to 17.11.2016 in this account, where as cash of Rs.50, 99,000 on 18.11.2016 during demonetization. This deposit is abnormal and not commensurate with your bank transactions in this account which is in the garb of agricultural receipts. On verification of Bank account it is seen that amounts were credited from the partner by cheque and most of the payment were made through cheque. The debit entries reveal that you have incurred expenses through cheque. However it is strange to note that the so claimed Agricultural receipts were retained by you and deposited only during demonetization period. It is pertinent to note that immediately after cash deposits on 18.11.2016 of Rs. 50,99,000/-, the entire cash was immediately transferred to partners bank account which appears to be absurd.

In view of the above, you have made a fantastic and tailor made claims merely to serve your purpose and avoid the tax liability in the guise of Agricultural receipts of Rs.81,52,475/- which deserves to be negated. It is a trite law that whatever claims made by the assessee in the return of income, needs to be substantiated by proper explanations and supporting documents which have not been done in your case. Your explanation about the nature and source of money deposited is not satisfactory. Under such circumstances, you are hereby asked to show cause as to why the amount of Rs. 50,99,000/- should not be brought to tax within the meaning of section 69A of the I.T. Act r.w.s. 115BBE of the I.T. Act. You have claimed total Agricultural receipts of Rs. 81,52,475/- which includes cash deposits of Rs. 50,99,000/- and balance Agricultural receipts works out to Rs. 30,53,475/- which has not been justified. Hence, you are hereby asked to show cause as to why the amount of Rs. 30,53,475/- should not be treated as income from other sources and brought to tax.

Please furnish your reply on or before 13.12.2019 by 4.30 p.m.”

9. The assessee in response to the notice filed the following reply which is reproduced by the Assessing Officer at para 7 of assessment order:

“1. The activity of agriculture had commenced in A.Y 2017-18. Your Honour is requested to conduct field verification to confirm the same. Your Honour may also refer to government agencies for past satellite images, which will justify that the activity of agriculture was carried out.

2. Sale bills are made for each sale. As they are manual in bound book same could be uploaded, they can be produced for your verification. Sales are made at site, in the open market and also made to some super markets. There are no contracts or

agreements with them. Regular invoicing is done to them and payments also received from them.

3. We own a TATA truck, which is appearing the fixed assets. This vehicle is used for deliveries, also some transport charges are debited to profit and loss account, some parties collect directly, Ledger of the same was attached in earlier submissions. Hence the contention that details of transportation are not provided, is incorrect.

4. Expenses incurred towards packing are also debited to the profit and loss account. Where it is sold in open market or at site no packing is required. Ledger of the same was attached in earlier submissions. Hence the contention that packing details are not provided, is incorrect.

5. A few sample bills of expenses were uploaded for your verification. Request you to kindly refer to the Balance sheet where in the fixed Assets an amount of Rs. 2.30 Crores appears as Capital Cost. This the expense incurred towards development of land. Only the expenses incurred towards cultivation like fertilizer, compost, labour, etc are claimed as expenses against agriculture receipts.

6. Some initial development of land was carried out in the books of the individual land owners. This development can be clearly justified by referring to the audited financials of the land owners for A.Y 2016-17. Hence, there is no agricultural income in the books of land owners for earlier years.

7. As correctly mentioned by you 7/12 extract is the real time record of land and crops maintained by the revenue department. The Talathi as per his information collected from other revenue workers and sometimes of his own make entries on 7/12. However, the records of the Talathi are not updated. An updated 7/12 extract is being procured and will be submitted to your Honour within a week.

8. Cash deposits into banks are out of collection for sales as duly reflected in cash books. Same was duly explained and verified by Investigation wing during Oct 2017 to Jan 2018.

9. As all the receipts are explained and duly recorded in regular books of accounts we request your honour not to add any amount to the returned income.

The agriculture activity is genuine and if required please conduct field verification to ascertain the same. Considering the above, we request your Honour not to treat any amount as unexplained.”

10. However, the Assessing Officer was not satisfied with the arguments advanced by the assessee and made addition of Rs.50,99,000/- u/s 69A r.w.s. 115BBE of the Act and also made addition of Rs.30,53,475/- being the difference

between the agricultural receipt of Rs.81,52,475/- and the cash deposit of Rs.50,99,000/- by observing as under:

"8. The details submitted by the assessee perused however the same is not acceptable. The assessee reiterated the facts which already submitted in response to the notice u/s.142(1). The assessee suggested visiting the farm or verification through google earth. However onus is on the assessee to establish its claim with evidences of agricultural income actually received by him. The assessee failed to establish the same. Merely expenses made on development of land and appearing in balance sheet does not prove that the crops are cultivated, grooved and sold in market. As stated in show cause most of the expenses have been incurred towards development of land ie. leveling, dumping etc for the period of August 2016 to March-2017. It is thus noted that these expenses have been incurred towards non agricultural activities and not on cultivation. The assessee submitted updated 7/12 extract as per this 7/12 also the nature of the land seen non irrigated. The crops shown are also not cash crops. On verification of the 7/12 extract it is seen that for the years up to 2015-16 most of the land was shown as Pad and Dongar pad" mean s hilly and uncultivated land. Whereas as per the entries from F.Y 2016-17 crop shown as Mango, Sitaphal and vegetables. Thus it is seen that the plantation was made in the year 2016-17. However it is beyond imagination that trees like Mangoes, and Sitaphal planted, groved and the yield sold in same year. As stated above the land owners i.e. the partners of the firm never showed agricultural income for any of the year in their return of income. This fact also shown that the land was not under cultivation. It is also unbelievable that such huge sale has been made in local market and the cash has been kept in hand up to 18.11.2019 when the assessee having two bank accounts. Further the amount deposited in bank on 18.11.2019 and on the same day transferred to the partner Shri. B.V. Palrecha. Thus as discussed in show cause notice the assessee failed to establish that it has actually earned agricultural income and the receipt was kept in hand and deposited in bank during the demonetization. This is nothing but after thought of the assessee. In the normal human parlance, in the ordinary course, it is human tendency that a person who borrowed fund from others for expenses should not kept a large amount of cash in hand. It is for the assessee to prove the reasons for doing so. "Human Probability Test is one of the important tests in order to check the genuineness of the transactions. Applying the ratio in the "Theory of Human Probability", it is crystal clear that no prudent person will hold such CASH in hand who borrowed funds from partners and make expenses on development of land. Thus, it is clear that the assessee has deposited his undisclosed & unexplained cash in bank and immediately transferred to the partner.

8.1. If the nature and source of any receipt/investment, whether it be a money or other property, cannot be satisfactorily explained by the assessee, it is open for the revenue to hold that it is the income of the assessee and no further burden lies on the revenue to show that the income is from any particular source. In the case of the assessee, the assessee could not explain the sources of deposit of cash of Rs.50,99,000/- on 18.11.2016 after demonetization.

8.2 Under such circumstances, the amount of Rs.50,99,000/- is brought to tax within the meaning of section 69A of the I.T. Act r.w.s. 115BBE of the I.T. Act. Further the assessee claimed total Agricultural receipts of Rs. 81,52,475/- which includes cash deposits of Rs. 50,99,000/- and balance Agricultural receipts works out to Rs. 30,53,475/- which has not been justified. Hence, the amount of Rs. 30,53,475/- treated as income from other sources and brought to tax. Penalty proceedings u/s. 271AAC of the Act in respect of unexplained income is initiated separately.”

11. In appeal the Ld. CIT(A) / NFAC sustained both the additions. So far as the addition of cash deposit of Rs.50,99,000/- is concerned, he sustained the addition by observing as under:

“6.0 Ground no. 1, 2, and 3 are with regard to addition of Rs.50,99,000/-. The appellant has argued that the matter was explained to the Investigation Wing of the Department. This argument is not a valid argument. It was his duty to explain the matter before the Assessing Officer. Moreover, he has not explained it before the CIT(A). Any legal conclusion cannot be reached, based on the explanation before some other authority. In similar circumstances, the assessee argue against the Department that Notice u/s 148 is issued on borrowed satisfaction, i.e. at the instance of Investigation Wing. Without prejudice to this, the manner of deposit and withdrawal thereafter of Rs.50,99,000/- also indicate that the money did not have any connection with the so called agricultural receipt of the appellant AOP. The analysis of the Assessing Officer at para 10, page 4 of the order appears to be more reasonable than the argument of the assessee. The argument of the assessee as well as the facts and circumstances related to deposit of Rs.50,99,000/- on 18.11.2016 and that also during the demonetization period are against normal human probability. The assessee has not cooperated in enquiry by the CIT(A), which is evident from the non-compliance to the three letters issued as mentioned above. So, this addition is sustained.”

12. So far as the addition of Rs.30,53,475/- by treating the agricultural income as ‘Income from other sources’, he also sustained the same by observing as under:

“7.0 Ground no. 4, 5, 6 and 7 relate to treatment of 30,53,475/- as income from other sources. The assessee has argued that the Assessing Officer has made the addition on irrelevant considerations as well as on conjecture and surmises. The appellant has further argued that the AO should have visited the site of Agricultural production. These arguments of the appellant are just academic as they are not supported by any facts and figures. A.O. is not supposed to go to the land for verifying agricultural activity. Moreover, his visit also would not have revealed the truth as he was proceeding to the assessment after about two years

from the end of the relevant assessment year. The appellant has not produced the copy of invoices for sale of products, copy of trading, profit & loss account and balance sheet as asked to produce by the CIT(A). It has not produced ledger account of retail outlets as required through letter dated 25.05.2023. It has not produced the mail id of its customers as well as its suppliers, also. In this manner, it has not facilitated the enquiry by CIT(A) rather it has blocked it. So, it has not brought any material which could prove that the Assessing Officer made the addition on conjecture and surmises. It has shown loss from agricultural activities but it was depositing huge money in the bank account on a single day. From perusal of the relevant paras of the Assessment Order, it is found that the assessee has spent some money on development of the land and planting of trees thereon. It has not proved that there was actually sale of agricultural produce. A few bill and challan has been produced which are not enough to prove the agricultural activity of the appellant. One of the bills is for purchase of cattle feed. Under these circumstances, I have no other option than to agree with the Assessing Officer. Therefore, the addition of Rs.30,53,475/- is also sustained.”

13. Aggrieved with such order of the Ld. CIT(A) / NFAC, the assessee is in appeal before the Tribunal by raising the following grounds:

The following grounds are taken without prejudice to each other -

On facts and in law,

- 1] *The assessee requests for condonation of delay of 519 days in filing the appeal since there was reasonable cause on its part for not filing the appeal within the prescribed time limit.*
- 2] *The learned CIT(A) has erred in confirming the addition of Rs.50,99,000/- made u/s 69A r.w.s. 115BBE of the Act on account of cash deposit in the bank account during the demonetization period.*
- 3] *The learned CIT(A) erred in confirming the addition of Rs.50,99,000/- on the ground that the assessee had not complied to the enquiries raised during the appellate proceedings.*
- 4] *The learned CIT(A) erred in holding that the cash deposit of Rs.50,99,000/- in the bank account during the demonetization was beyond human probabilities and hence, addition was rightly made by the learned A.O.*
- 5] *The learned CIT(A) erred in rejecting the contention of the appellant that the cash deposited in the bank account of Rs.50,99,000/- was out of the agricultural income earned by the assessee.*
- 6] *The learned CIT(A) erred in not appreciating that the assessee was carrying out agricultural operations at Village Malthan and the cash*

deposited in the bank account was out of the agricultural income generated by the assessee firm and therefore, the addition made of Rs.50,99,000/- u/s 69A r.w.s. 115BBE is not justified and the same may kindly be deleted.

- 7] *The learned CIT(A) erred in not appreciating that the assessee had submitted various evidences to prove the agricultural activities carried out by it and accordingly, there was no reason to disbelieve the claim of the assessee and the addition made may kindly be deleted.*
- 8] *The assessee submits that due to change in employees the subsequent notices issued by the learned CIT(A) to be made unanswered and assessee requests for one more opportunity to present its case.*
- 9] *The learned CIT(A) further erred in confirming the addition of Rs.30,53,475/- by treating the agricultural income as income from other sources on the ground that the assessee firm had failed to prove the actual sale of agricultural produce.*
- 10] *The learned CIT(A) erred in not appreciating that the assessee had carried out agricultural operations out of which income was generated and therefore, there was no reason to make any addition of Rs.30,53,475/-.*
- 11] *The learned CIT(A) ought to have appreciated that the assessee had submitted various evidences of sale of agricultural produce before the learned A.O. and therefore, there was no reason to reject the claim of the assessee and the addition of Rs.30,53,475/- may kindly be deleted.*
- 12] *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.*

14. The Ld. Counsel for the assessee strongly challenged the order of the Ld. CIT(A) / NFAC in dismissing the appeal filed by the assessee. He submitted that the assessee is having around 100 acres of agricultural land from which the assessee during the year under consideration, has derived the agricultural income. Referring to the Profit and Loss Account for the financial year 2016-17, copy of which is placed at page 188 of the paper book, the Ld. Counsel for the assessee submitted that after considering the expenses the assessee has declared net loss of Rs.1,81,459.25 and has not derived any benefit by claiming excess agricultural

income. Referring to the audited financials for financial year 2017-18 i.e. relevant to assessment year 2018-19, copy of which is placed at pages 255 to 272 of the paper book, he drew the attention of the Bench to the Profit and Loss Statement for the year ended 31.03.2018 (page 256) and submitted that the revenue from the operations during the year has been shown at Rs.49,12,359/-. Referring to the audited financials for assessment year 2018-19 i.e relevant to assessment year 2019-20, copy of which is placed at pages 273 to 291 of the paper book, the Ld. Counsel for the assessee drew the attention of the Bench to the Profit and Loss Statement for the year ended 31.03.2019 (page 274) and submitted that the revenue from operations have been shown at Rs.1,62,76,836/- and other income at Rs.21,81,135/-. He submitted that a comparison of the Profit and Loss Account for all the three years would show that the assessee is consistently showing the receipt from agricultural operations. Further in the subsequent years such agricultural income has been accepted. Referring to page 10 of the paper book, the Ld. Counsel for the assessee drew the attention of the Bench to the various submissions made before the Assessing Officer. Referring to page 4 of the order of the Ld. CIT(A) / NFAC, the Ld. Counsel for the assessee drew the attention of the Bench to the various details filed before the Ld. CIT(A) / NFAC which are as under:

Subject: Enquiry for the purpose of appeal proceedings-reg.

- 1. Brief note about the activity related to agriculture.*
- 2. Copy of Bank Statements for F.Y 2015-16, 2016-17 and 2017-18*
- 3. Copy of invoices for sale of product.*

4. Copy of trading, profit, loss account and balance sheet if any for F.Y 2014-15, 2015-16, 2016-17, and 2017-18

5. Copy of ledger account of retail outlets as per list submitted.

6. Partnership deeds.

7. Any other evidence in support of your claim.

15. Referring to the copy of Cash Book for the financial year 2016-17, copy of which is placed at pages 39 to 169 of the paper book, the Ld. Counsel for the assessee drew the attention of the Bench to page 110 of the paper book and submitted that the assessee has deposited the cash of Rs.50,99,000/- on 18.11.2016. He submitted that the cash so deposited was out of cash available in assessee's cash book which is regularly maintained. He accordingly submitted that the order of the Ld. CIT(A) / NFAC sustaining both the additions made by the Assessing Officer is not justified and therefore, the same should be deleted.

16. The Ld. DR on the other hand heavily relied on the orders of the Assessing Officer and the Ld. CIT(A) / NFAC. He submitted that the onus is on the assessee to substantiate with evidence to the satisfaction of the Assessing Officer regarding the agricultural income received by him during the year. Further, it is not understood as to why and how the assessee, despite a having bank account, has kept so much of money in his hand and which was deposited on 18.11.2016. He accordingly submitted that the order of the Ld. CIT(A) / NFAC being reasoned one should be upheld and the grounds raised by the assessee be dismissed.

17. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee and the Revenue. We have also considered the various decisions cited before us. It is an admitted fact that the Assessing Officer not being satisfied with the explanation given by the assessee made addition of Rs.50,99,000/- being the cash deposit in the bank account on 18.11.2016 i.e. during the demonetization period u/s 69A r.w.s. 115BBE of the Act. Similarly the balance amount of Rs.30,53,475/- (i.e. total income from agricultural operations at Rs.81,52,475/- less cash deposited in the bank account at Rs.50,99,000/-) was also added by the Assessing Officer by treating the same as 'Income from other sources'. We find the Ld. CIT(A) / NFAC sustained both the additions, the reasons of which have already been reproduced in the preceding paragraphs. It is the submission of the Ld. Counsel for the assessee that the assessee is holding around 100 acres of agricultural land, in assessment year 2018-19 the assessee has disclosed agricultural receipt of Rs.49.12 lakh and in assessment year 2019-20 the assessee has disclosed agricultural receipt of Rs.1.62 crore. In the two subsequent years such agricultural receipt has been accepted and nothing has been added. It is also his submission that the cash so deposited in the bank account on 18.11.2016 is on the basis of availability of cash in the Cash Book. Further, it is also his submission that when all the necessary evidences were produced before the Assessing Officer, he was not justified in disregarding the agricultural income and making the addition of Rs.30,53,475/- apart from the addition of Rs.50,99,000/-.

18. We find some force in the above arguments of the Ld. Counsel for the assessee. There is no dispute to the fact of holding of around 100 acres of agricultural land by the assessee. It is also an admitted fact that in the subsequent two assessment years i.e. assessment year 2018-19 and 2019-20 the assessee has disclosed the agricultural receipt of Rs.49.12 lakh and Rs.1.62 crore respectively. It is also an admitted fact that the assessee has reflected such receipts on various dates in the Cash Book. Under these circumstances, disregarding the entire agricultural receipts in our opinion is not justified. At the same time, when the assessee was having a bank account, we fail to understand as to why the assessee was holding so much cash in his hands. Therefore, the argument of the Ld. Counsel for the assessee that no addition can be made also cannot be accepted. Since the assessee undisputedly was holding about 100 acres of agricultural land and in the two subsequent assessment years i.e. 2018-19 and 2019-20, the assessee has shown the gross receipts from the agricultural activity at Rs.49.12 lakh and Rs.1.62 crore respectively and nothing was brought by Revenue before us that such agricultural income was not accepted by the Revenue, therefore, disregarding the entire agricultural income of the impugned assessment year in our opinion is not justified. Considering the totality of the facts of the case, disallowance of 20% of such gross receipts of Rs.81,52,475/- in our opinion will meet the ends of justice. The order of the Ld. CIT(A) / NFAC is modified accordingly. Accordingly, we direct the Assessing Officer to restrict the addition to Rs.16,30,495/- as against the addition of Rs.81,52,475/- (i.e. Rs.50,99,000/- + Rs.30,53,475/-). Further, the provisions of section 115BBE of the Act in our opinion are not applicable to the

facts of the present case since the receipts are from disclosed sources i.e. from agricultural activity only. We hold and direct accordingly. The grounds raised by the assessee are accordingly partly allowed.

19. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open Court on 30th April, 2025.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(R. K. PANDA)
VICE PRESIDENT

पुणे Pune; दिनांक Dated :30th April, 2025

GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'B' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	17.04.2025 & 29.04.2025		Sr. PS/PS
2	Draft placed before author	21.04.2025 & 30.04.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			